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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4287

[Docket No. RBS–22–BUSINESS–0018]

RIN 0570–AB08

Updates to Servicing Requirements for Business & Industry Guaranteed Loans

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

ACTION: Final rule.

SUMMARY: The Rural Business Cooperative Service (RBCS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is revising their servicing requirements for the Business & Industry (B&I) Guaranteed Program to clarify the current regulation and update certain provisions to align with the OneRD Guarantee Loan Initiative.

DATES: This final rule is effective October 24, 2022.

ADDRESSES: Additional information about RD and its programs is available on the internet at *https://www.rd.usda.gov/.*

FOR FURTHER INFORMATION CONTACT: Justin Kirking, Servicing Branch Chief, Rural Business-Cooperative Service, USDA Rural Development, 1400 Independence Ave. SW, Rm 5803–Stop 3201, Washington, DC 2050–3201; telephone 608–606–0298; email *justin.kirking@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the B&I Guaranteed Loan Program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. This is achieved by bolstering the existing private credit structure through the guarantee of quality loans.

The regulations in 7 CFR part 4287, subpart B, Servicing Business and Industry Guaranteed Loan Program, provide servicing and liquidation requirements for Business & Industry (B&I) Guaranteed Loans originated under 7 CFR part 4279, subparts A and B. Subparts A and B of 7 CFR part 4279 and subpart B of 7 CFR part 4287 are applicable to B&I Loans guaranteed by the Agency prior to October 1, 2020, and to B&I loans made under the authority of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136) to provide B&I guarantees for loans needed as a result of the Coronavirus Disease 2019 (COVID–19) pandemic for working capital loan purposes to support business operations and facilities in rural areas (B&I CARES Act Program Loans). Beginning on October 1, 2020, new B&I loans are made under 7 CFR part 5001, Guaranteed Loans, which is commonly referred to as the OneRD Guarantee Loan Initiative.

The RBCS is amending 7 CFR part 4287, subpart B, with the intent to clarify the current regulation and update certain provisions to align with 7 CFR part 5001. It is anticipated that most existing lenders with guaranteed loans serviced under 7 CFR part 4287, subpart B, will obtain new guarantees under 7 CFR part 5001 which will be serviced in accordance with subpart F of 7 CFR part 5001. The Agency has identified several provisions that should be aligned between the two servicing regulations (7 CFR part 5001 and 7 CFR part 4287, subpart B) in order to provide consistency, efficiency, and to improve the customer experience.

II. Summary of Changes to the Rule

Section 4287.107 Routine Servicing

Paragraph (d) is updated to clarify financial reporting requirements for the Borrower(s).

Section 4287.112 Interest Rate Changes

Paragraph (b) is revised to provide flexibility regarding changing from a variable rate to a fixed rate and to help align with 7 CFR part 5001.

Section 4287.113 Release of Collateral

Paragraphs (a) and (c) are revised to establish uniform procedure for the release of collateral and to bring the regulation more in alignment with 7 CFR part 5001.

III. Executive Orders/Acts

Executive Order 12866—Classification

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Congressional Review Act

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

Assistance Listing Number (Formally Known as the Catalog of Federal Domestic Assistance)

The Assistance Listing Number assigned to the Business and Industry Guaranteed Loan Program is 10.768. The Assistance Listings are available on the internet at *https://sam.gov/.*

Executive Order 12372—Intergovernmental Review

This final rule is excluded from the scope of Executive Order 12372 (Intergovernmental Consultation), which may require a consultation with State and local officials.

Paperwork Reduction Act

This rule contains no new reporting or recordkeeping burdens under OMB control number 0570–0069 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1970 (''Environmental Policies and Procedures''). RBCS has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not ''connected'' to other actions with potentially significant impacts, is not considered a ''cumulative action'' and is not precluded by 40 CFR 1506.1. Therefore,

the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBCS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RBCS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

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

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–602) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. The Administrative Procedures Act exempts from notice and comment requirements rules ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts'' (5 U.S.C. 553(a)(2)), so therefore an analysis has not been prepared for this rule.

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the States is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

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

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Civil Rights Impact Analysis

Rural Development, a mission area for which RBCS is an agency, has reviewed this rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the rule and available data, it has been determined that based on the analysis of the program purpose, application submission and eligibility criteria, issuance of this final rule is not likely to negatively impact very low, low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this rule.

USDA Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.usda.gov/sites/default/files/documents/usda-program-discrimination-complaint-form.pdf,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

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

List of Subjects for 7 CFR Part 4287

Economic development, Energy, Energy conservation, Grant programs,

Loan programs, Loan programs—business, Loan programs—housing and community development, Renewable energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons discussed in the preamble, 7 CFR part 4287 is amended as follows:

PART 4287—SERVICING

■ 1. The authority citation for part 4287 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932(a); 7 U.S.C. 1989.

Subpart B—Servicing Business and Industry Guaranteed Loans

■ 2. Amend § 4287.107 by revising paragraph (d) to read as follows:

§ 4287.107 Routine servicing.

* * * * *

(d) *Borrower financial reports.* The lender must obtain, analyze, and forward to the Agency the borrower's and any guarantor's annual financial statements required by the loan agreement within 120 days of the end of the borrower's fiscal year. States, local government, Indian tribes, institution of higher education, and nonprofit organization borrowers who meet the Federal awards expended threshold established in 2 CFR part 200, subpart F, during their fiscal year must submit an audit conducted in accordance with 2 CFR part 200, subpart F. When the borrower's audit is conducted in accordance with 2 CFR part 200, subpart F, audits must be submitted no later than nine months after the end of the borrower's fiscal year or 30 days after the borrower's receipt of the auditor's report, whichever is earlier. The lender must analyze these financial statements and provide the Agency with a written summary of the lender's analysis, ratio analysis, and conclusions, which, at a minimum, must include trends, strengths, weaknesses, extraordinary transactions, violations of loan covenants and covenant waivers proposed by the lender, any routine servicing actions performed, and other indications of the financial condition of the borrower. Spreadsheets of the financial statements must also be included. Following the Agency's review of the lender's financial analysis, the Agency will provide a written report of any concerns to the lender. Any concerns based upon the Agency's review must be addressed by the lender. If the lender makes a reasonable attempt to obtain financial statements but is unable to obtain the borrower's cooperation, the failure to obtain financial statements will not impair the validity of the Loan Note Guarantee.

* * * * *

■ 3. Amend § 4287.112 by revising paragraph (b) to read as follows:

§ 4287.112 Interest rate changes.

* * * * *

(b) No increases in interest rates will be permitted, except the normal fluctuations in approved variable interest rates, unless a temporary interest rate reduction occurred or to change from a variable rate to a fixed rate. Variable rates can be changed to a fixed rate at the request of the borrower, lender, agreement of the holder, if any, and with the Agency's prior written concurrence. After the rate change, the rate must meet the requirements of 7 CFR 4279.125.

* * * * *

■ 4. Amend § 4287.113 by revising paragraph (a) and the introductory text of paragraph (c) to read as follows:

§ 4287.113 Release of collateral.

(a) Within the parameters of paragraph (c) of this section, lenders may, over the life of the loan, release collateral (other than personal and corporate guarantees) without Agency concurrence if the proceeds generated are used to pay down debt in order of lien priority, reduce the guaranteed loan or to acquire replacement collateral. Working assets, such as accounts receivable, inventory, and work-in-progress that are routinely depleted or sold and proceeds used for the normal course of business operations may be used in and released for routine business purposes without prior concurrence of the Agency as long as the loan is not in monetary default or liquidation.

* * * * *

(c) Collateral must remain sufficient to provide for adequate collateral coverage for the outstanding guaranteed loan(s). For a release of collateral request when the Borrower is not in monetary default or liquidation, the lender must support all releases of chattel collateral with a value exceeding $250,000 and real estate collateral with a value exceeding $500,000 with a current appraisal on the collateral being released and otherwise meets the requirements of § 4279.144 of this chapter. All other release of collateral requests must meet the appraisal requirements of § 4279.144 of this chapter. The cost of this appraisal will not be paid for by the Agency. The Agency may, at its discretion, require an appraisal of the remaining collateral in cases where it has been determined that the Agency may be adversely affected by the release of collateral. The sale or release of the collateral must be based on an arm's length transaction, and there must be adequate consideration for the release of collateral. Such consideration may include, but is not limited to:

* * * * *

Karama Neal,

Administrator, Rural Business Cooperative Service.

Chrisopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2022–20652 Filed 9–22–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 26 and 27

[Docket No. TTB–2022–0009; T.D. TTB–186; Re: Notice No. 186]

RIN 1513–AC89

Implementation of Refund Procedures for Craft Beverage Modernization Act Federal Excise Tax Benefits Applicable to Imported Alcohol

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Temporary rule; Treasury decision.

SUMMARY: This temporary rule amends the Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations to implement certain changes made to the Internal Revenue Code by the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Tax Relief Act), which amended the Craft Beverage Modernization Act (CBMA) provisions of the Tax Cuts and Jobs Act of 2017. The Tax Relief Act transfers responsibility for administering CBMA provisions regarding reduced tax rates and tax credits on imported alcohol from U.S. Customs and Border Protection (CBP) to the U.S. Department of the Treasury, effective January 1, 2023. Beginning on that date, importers will pay the full tax rate at entry and subsequently submit refund claims to TTB to receive the lower rates. This rule establishes procedures for industry members to take advantage of reduced tax rates and tax credits that may be applied to specified limits of imported alcohol products that are entered for consumption in the United States beginning on January 1, 2023. These regulations establish the procedures by which foreign producers

may assign the reduced tax rates and tax credits to importers and the procedures by which such importers may receive the assignments and submit refund claims to TTB. TTB is soliciting comments from all interested parties on these amendments through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

DATES:

Effective date: This temporary rule is effective October 24, 2022.

Comment due date: Comments on the proposed rule must be received on or before November 22, 2022. See the Public Participation section of the **SUPPLEMENTARY INFORMATION** for information on how to comment on the proposed rule.

FOR FURTHER INFORMATION CONTACT: Jesse Longbrake, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone (202) 453–1039, extension 066.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Transition to Refunds in Lieu of Reduced Tax Rates and Tax Credits for Imported Alcohol

This temporary rule amends the Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations to implement changes to the Internal Revenue Code of 1986 (IRC) pursuant to the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (''Tax Relief Act''). The principal regulatory changes establish procedures for taking advantage of reduced tax rates and tax credits established under the Craft Beverage Modernization Act (CBMA) (collectively, ''tax benefits'' or ''CBMA tax benefits'') for imported alcohol products entered for consumption [1] in the United States beginning in 2023. These CBMA tax benefits were first made available in 2018, through the Tax Cuts and Jobs Act (Pub. L. 115–97).[2]

The CBMA provisions of the Tax Cuts and Jobs Act provided limited tax benefits to domestic and foreign producers of distilled spirits, wine, and beer. Domestic industry members are eligible for CBMA tax benefits when they pay tax to TTB. Foreign producers must assign the applicable tax benefits to importers, who then may elect to take them. Since 2018, U.S. Customs and Border Protection (CBP) has administered the provisions for imported alcohol, and established procedures for the foreign producer to assign tax benefits to importers, as well as for the importers to receive the benefits and apply them at the time of entry. The CBMA tax benefits available to domestic and foreign producers are subject to controlled group limitations, which are described more fully later in this document. The CBMA tax benefits for imported alcohol products [3] are as follows:

- Each foreign distilled spirits operation receives tax benefits in the form of reduced tax rates that they may assign to importers. The benefits apply to the first 22,230,000 proof gallons of that foreign producer's product imported into the United States in a calendar year. These rates are, for each foreign producer, $2.70 per proof gallon on the first 100,000 proof gallons imported, and $13.34 per proof gallon on the next 22.13 million proof gallons imported into the United States.
- Each foreign wine producer receives tax benefits in the form of tax credits that they may assign to importers. The benefits apply to the first 750,000 wine gallons of that producer's production imported into the United States in a calendar year. The credits are, for each foreign producer, $1 per wine gallon on the first 30,000 wine gallons of wine imported, 90 cents on the next 100,000 wine gallons imported, and 53.5 cents on the next 620,000 wine gallons imported. The tax credits apply to all wine tax rates,[4] except that CBMA provides for adjusted credits for imported wine eligible for the hard cider tax rate (6.2 cents, 5.6 cents, and 3.3 cents, respectively).
- Each foreign brewer receives tax benefits in the form of a reduced tax rate of $16 per barrel. These tax benefits may be assigned to importers for the first 6,000,000 barrels produced by that foreign producer and imported into the United States in a calendar year.

These CBMA tax benefits applied to calendar years 2018 and 2019, and were subsequently extended and finally made permanent through the Tax Relief Act.[5] In making these tax benefits permanent, this Act also transferred responsibility for administering the CBMA tax benefits for imported alcohol from CBP to the Department of the Treasury (Treasury).[6] Consequently, beginning January 1, 2023, importers must pay the full tax rate [7] on imported alcohol products to

[1] This temporary rule implements statutory tax refund provisions that apply to imported products ''removed'' after December 31, 2022. See 26 U.S.C. 5001(c)(4), 5041(c)(7), and 5051(a)(6)). TTB regulations at 27 CFR 27.48 provide that any internal revenue taxes payable on imported distilled spirits, wines, and beer upon release from customs custody are collected, accounted for, and deposited as internal revenue collections by U.S. Customs and Border Protection (CBP) in accordance with CBP requirements. There are different types of entry under CBP regulations, and ''entered for consumption'' refers to a type of customs entry filed to introduce the goods into the stream of U.S. commerce. Such entries are subject to applicable tax and duties. Accordingly, consistent with TTB regulations and CBP policies, TTB interprets the term ''removed'' as used in the CBMA tax refund statutory provisions for imported products to mean ''entered for consumption.'' For purposes of this temporary rule, ''entered for consumption'' includes withdrawal from a CBP bonded warehouse for consumption.

[2] The ''Craft Beverage Modernization and Tax Reform Act.'' These statutory provisions apply to beverage and non-beverage alcohol. See Public Law 115–97, sections 13801–13808 (CBMA provisions of the law commonly known as the Tax Cuts and Jobs Act).

[3] These tax benefits apply to alcohol from foreign countries and other areas outside of the customs territory of the United States (as defined in 19 CFR 101.1) that is imported into the United States (as defined at 26 U.S.C. 7701(a)(9) as the 50 States and the District of Columbia) and entered for consumption subject to tax. Foreign producers may not assign tax benefits to domestic distilled spirits plants, bonded wine cellars, or breweries that receive bulk distilled spirits, natural wine, or beer that is withdrawn without payment of tax from customs custody for transfer to their bonded premises under 26 U.S.C. 5232, 5364, or 5418.

[4] Wine tax rates vary based on a number of factors such as alcohol and carbonation content. See 26 U.S.C. 5041.

[5] See Public Law 115–97, sections 13801–13808 (CBMA provisions of the law commonly known as the Tax Cuts and Jobs Act); Public Law 116–94, section 144 (Further Consolidated Appropriations Act, 2020 extending and amending CBMA provisions); Public Law 116–260, Division EE, sections 106–110 (Tax Relief Act of 2020 making CBMA provisions permanent with amendments).

[6] See Section 107(e) & (f) of the Tax Relief Act of 2020 (Pub. L. 116–260, Division EE) (134 Stat. 3048). Paragraph (e) reads, ''The Secretary of the Treasury (or the Secretary's delegate within the Department of the Treasury) shall implement and administer sections 5001(c)(4), 5041(c)(7), and 5051(a)(6) of the Internal Revenue Code of 1986, as added by this Act, in coordination with the United States Customs and Border Protection of the Department of Homeland Security.'' Paragraph (f) reads, ''The Secretary of the Treasury (or the Secretary's delegate within the Department of the Treasury) shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. . . .''

[7] Here the ''full tax rate'' refers to the tax rate applicable without taking into account any reduced

CBP and then subsequently submit refund claims for the difference between the tax paid at the full rate and the amount that would have been paid if tax liability had been calculated using the tax benefits foreign producers assigned to them. These regulations establish the procedures by which foreign producers assign the CBMA tax benefits to importers and the procedures by which such importers receive the foreign producer's assignment and submit refund claims to TTB.

These temporary regulations set forth the procedures under which foreign distilled spirits operations, wine producers, and brewers (collectively ''foreign producers'') may elect to assign CBMA tax benefits to importers and the procedures by which importers may elect to receive the assignments and file refund claims with TTB to receive those benefits starting in 2023. Generally, these provisions: (1) require foreign producers to register with TTB prior to assigning tax benefits to importers; (2) establish the information foreign producers must submit in order to register and assign those benefits; and (3) establish the information that importers must provide to claim a refund based on the foreign producer's assignment of tax benefits to them. The information the importers must provide includes information the importer will generally submit through CBP's Automated Commercial Environment (ACE) as part of the entry summary,[8] as well as information the importer submits directly to TTB with the claim.

The temporary regulations also include provisions to implement statutory limitations on the CBMA tax benefits. For example, the CBMA tax benefits available for assignment by foreign producers are subject to controlled group limitations that apply to producers under common ownership. See 26 U.S.C. 5001(c)(3)(C), 5041(c)(3), and 5051(a)(5)(B). Accordingly, the temporary regulations require foreign producers to either attest that they are not under common ownership with other alcohol producers or to provide details about their owners when registering with TTB, as authorized by 26 U.S.C. 6038E.[9] The temporary regulations also address the statutory provisions that provide for revoking the eligibility of foreign producers to assign and importers to receive CBMA tax benefits due to the foreign producer's submission of erroneous or fraudulent information that is material to qualifying for CBMA tax benefits. See 26 U.S.C. 5001(c)(3)(B)(iv), 5041(c)(6)(B)(iv), and 5051(a)(4)(B)(4). These provisions are discussed in detail in section II of this document.

TTB will administer the CBMA import refund program through two components of an online system, ''myTTB,'' [10] as described in the Treasury Department's, ''Report to Congress on Administration of Craft Beverage Modernization Act Refund Claims for Imported Alcohol,'' dated June, 2021.[11] Using the online system, foreign producers will register, receive a TTB-issued Foreign Producer ID, and assign the CBMA tax benefits to importers. The importers will use the online system to elect to receive CBMA tax benefits assigned to them by foreign producers, and to submit refund claims based on those assignments and the information submitted by the importers themselves through ACE in connection with entries that are subject to CBMA claims.

B. TTB Authority

TTB regulates, among other things, the importation of distilled spirits, wine, and malt beverages [12] pursuant to the Federal Alcohol Administration Act (FAA Act). TTB also administers the provisions of the IRC with respect to the taxation of domestically produced distilled spirits, wine, and beer.[13]

The FAA Act requires a TTB permit before engaging in certain activities related to distilled spirits, wine, and malt beverages, including importation. See 27 U.S.C. 203(a). Section 203(a) provides that it shall be unlawful, except pursuant to a ''basic permit,'' to engage in the business of importing into the United States distilled spirits, wine, or malt beverages. Section 203(a) also states that it is unlawful for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, imported distilled spirits, wine, or malt beverages without a basic permit. Because many—but not all—alcohol products that are subject to tax under the IRC fall under the FAA Act definitions of distilled spirits, wine, and malt beverages, most—but not all—alcohol importers are required to obtain a TTB importer's basic permit under the FAA Act.[14]

Chapter 51 of the IRC pertains to the taxation and regulation of distilled spirits (including spirits used for both beverage and nonbeverage purposes), wine, and beer. The IRC imposes a Federal excise tax on all distilled spirits, wine, and beer manufactured in or imported into the United States. See 26 U.S.C. 5001, 5041, and 5051, respectively. The tax on distilled spirits, wine, and beer either imported from foreign countries or brought into the United States from beyond the customs territory of the United States, as defined in 19 CFR 101.1, including the U.S. Virgin Islands, is generally collected by CBP along with any import duties as part of CBP's exercise of its delegated customs revenue functions.[15] See

rates or credits available under CBMA; importers of distilled spirits will still be able to pay a reduced rate to CBP based on eligible wine or flavor content pursuant to 27 CFR 27.76 and 27.77.

[8] TTB understands that the vast majority of importers file entry and entry summary data electronically in ACE. As explained below, the electronic submission of import data in ACE is a prerequisite for using TTB's CBMA importer claims interface.

[9] See 26 U.S.C. 6038E (authorizing Treasury to require that foreign producers provide information related to a foreign producer's assignment of CBMA tax benefits to importers, including information about a foreign producer's controlled group structure).

[10] TTB is currently engaged in a multiyear initiative to develop and deploy ''myTTB,'' a single, online interface for all industry transactions with TTB, including permit, label, and formula applications, as well as tax filings, payments, and claims. When complete, myTTB will provide both industry and TTB with online access to a consolidated view of an industry member's records, approvals, and filings.

[11] Available at *https://www.ttb.gov/images/pdfs/treasury-cbma-import-claims-report-june-2021.pdf.*

[12] The terms ''distilled spirits'' and ''wine,'' when used in the context of the FAA Act, apply only to distilled spirits and wine for nonindustrial use, and ''wine'' is further defined under the FAA Act as containing ''not less than 7 percent'' alcohol by volume. See 27 CFR 1.10. Additionally, the FAA Act defines ''malt beverage'' as ''a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.'' Id.

[13] Under the IRC, alcohol subject to tax as ''distilled spirits'' includes both beverage and industrial spirits, as well as wine that contains more than 24 percent alcohol by volume. See 26 U.S.C. 5001(a)(1) and (3). Alcohol subject to tax as ''wine'' includes wine containing up to 24 percent alcohol by volume. The IRC defines ''beer'' as ''beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.'' See 26 U.S.C. 5052(a). References to ''beer,'' ''wine'' and ''distilled spirits'' in TTB's IRC regulations refer to those terms as they are defined in the IRC.

[14] Importers of industrial alcohol, wine under 7 percent alcohol by volume, or beer that is not a ''malt beverage'' may engage in the business of importing such alcohol without an FAA Act basic permit.

[15] Imported bulk distilled spirts, natural wine, and beer withdrawn without payment of tax from customs custody and transferred in bond to a domestic distilled spirits plant, bonded wine cellar, or brewery under 26 U.S.C. 5232, 5364, and 5418

Continued

Treasury Order 100–16, ''Delegation of Authority to the Secretary of Homeland Security,'' dated May 23, 2003.

The IRC provides general authority to the Secretary of the Treasury (Secretary) to issue regulations to carry out the provisions of the IRC. See 26 U.S.C. 7805(a). With respect to the tax benefits available under CBMA to foreign producers and to importers, the IRC directs the Secretary to issue rules, regulations, and procedures as appropriate for the assignment of such tax benefits. See 26 U.S.C. 5001(c)(3), 5041(c)(6), and 5051(a)(4). Additionally, these include procedures for allowing a foreign producer to assign and an importer to receive the CBMA tax benefits; limitations to ensure that the quantity of products for which a foreign producer assigns reduced rates does not exceed the statutory quantity limitations on such rates; requirements for foreign producers to provide any information the Secretary determines necessary and appropriate for making assignments; and procedures allowing for revocation of a foreign producer's eligibility to assign reduced rates based on erroneous or fraudulent information provided by the foreign producer that is material to qualifying for a reduced rate. Id. The IRC further provides specific authority for the Secretary to require foreign producers seeking to make assignments of CBMA tax benefits to provide information, at such time and in such manner, as the Secretary may prescribe, including information about the controlled group structure of such foreign producer. See 26 U.S.C. 6038E. An importer will only be allowed a refund for CBMA tax benefits if a foreign producer has elected to assign, and the importer has elected to receive, such benefits in accordance with the rules, regulations, and procedures. See, *e.g.,* 26 U.S.C. 5001(c)(4)(C).

TTB administers these IRC and FAA Act provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01. Responsibility for collecting the excise taxes incident to the importation of distilled spirits, wines, and beer is vested by statute with the Secretary. See 26 U.S.C. 7801. Under the authority of the Homeland Security Act of 2002, the Secretary has delegated these customs revenue functions to the Secretary of Homeland Security. See Treasury Department Order 100–16. Accordingly, TTB regulations provide that such taxes are collected, accounted for, and deposited as internal revenue collections by CBP in accordance with CBP requirements. See 27 CFR 27.48; see also 27 CFR 26.200(d).

Sections 107(e) & (f) of the Tax Relief Act set forth the Secretary's ability to delegate the implementation, administration, and rulemaking authority concerning the assignment of a foreign producer's CBMA benefits to importers, and the claims of importers seeking to receive those benefits, to ''the Secretary's delegate within the Department of the Treasury.'' Treasury indicated in its June 2021 ''Report to Congress on Administration of Craft Beverage Modernization Act Refund Claims for Imported Alcohol,'' [16] that it planned to delegate its authority to administer these provisions to TTB, and TTB was delegated such authority.

TTB regulations implementing the applicable provisions of chapter 51 of the IRC are found in 27 CFR part 27. Specifically, this part contains requirements relative to the importation of distilled spirits, wine, and beer into the United States from foreign countries, including the information importers are required to submit upon importation and the records importers must keep. Regulations at 27 CFR part 26 implement chapter 51 of the IRC as it applies to distilled spirits, wine, and beer brought into the United States from the U.S. Virgin Islands.

TTB has authority under section 2(d) of the FAA Act, Public Law 74–401 (1935) ''to prescribe such rules and regulations as may be necessary to carry out [its] powers and duties'' under the FAA Act. The TTB regulations at 27 CFR part 1 implement the permit requirements of the FAA Act.

II. Description of Temporary Regulations

As noted above, the temporary regulations set forth in this document address the procedures under which foreign producers of alcohol products elect to assign the tax benefits available under CBMA to importers and under which electing foreign producers can make such assignments. It also addresses how such importers may elect to receive the assignments and claim refund of tax based on those assignments of CBMA tax benefits for imported alcohol products entered for consumption in the United States beginning in 2023. These provisions require the use of electronic registration and filing systems that are intended to streamline processing of CBMA import refund claims. The electronic systems are necessary for the administration of the tax benefits and will, to the extent possible, accelerate the approval and payment of valid refund claims.

A. Foreign Producer Registration

TTB's temporary regulations require that foreign producers seeking to assign CBMA tax benefits to importers first register with TTB through an online foreign producer interface and obtain a Foreign Producer ID. The Foreign Producer ID will be necessary to link the foreign producer's assignment to the importer's associated customs entry data and refund claim. See, infra, section II(C).

The foreign producer registration is also necessary to protect the revenue by ensuring that entities seeking to assign CBMA tax benefits to importers are in fact existing foreign producers and by allowing TTB to collect certain ownership information necessary for TTB to enforce controlled group rules that limit assignments when there is common ownership with other producers.

Under the temporary regulations at 27 CFR 27.254, foreign producers will register by submitting basic identifying information for their business and for a point of contact at the business. This information includes the business name and address, as well as name, title, country of residence, phone number, and email address for an employee or individual owner of the business who can serve as a TTB point of contact for the foreign producer. If the individual submitting the foreign producer's registration information is different than this point of contact, the individual submitter must also provide basic identifying information, including the individual's name, address, phone number, and email address. TTB may request additional information, if necessary, to verify the submitter's identity.

The submitter may be the proprietor of the foreign producer, an employee thereof, or any agent that the foreign producer has authorized to act on its behalf. The submitter (and, if different, the employee or individual owner of the business identified as a point of contact) must have authorization from the foreign producer to provide the required registration information, edit the foreign producer's registration information, designate additional persons who are also authorized by the foreign producer to act on the foreign producer's behalf or cancel the designations of authorized persons, and make assignments of

is outside the scope of this rule as, in those cases, the tax is collected from domestic industry members by TTB and not from the importers by CBP.

[16] Available at *https://www.ttb.gov/images/pdfs/treasury-cbma-import-claims-report-june-2021.pdf.*

CBMA tax benefits, because the submitter will be able to take these actions in the online foreign producer interface.

To validate the existence of the registered entity and to assist in preventing a single foreign producer from registering with TTB multiple times and making assignments to importers exceeding the statutory quantity limitations, the temporary regulations require foreign producers to submit, as part of the TTB registration, the U.S. Food and Drug Administration (FDA) Food Facility Registration number(s) that are generally reported to FDA in connection with the importation(s) into the United States of such producer's products.

Additionally, the foreign producer must either attest that it does not share common ownership with other producers or submit identifying information for any individual or entity that owns 10 percent or more of the foreign producer being registered. As explained further below, this information is necessary for TTB to enforce statutory controlled group rules that limit assignments of CBMA tax benefits when there is common ownership with other producers.

The registering foreign producer must also provide certain certifications attesting to the submitter's authority and the truthfulness of the information submitted. The foreign producer must also acknowledge that providing erroneous or fraudulent information may result in the revocation of the foreign producer's eligibility to assign CBMA tax benefits. See, infra, section II(D) of this document.

Finally, the temporary regulations require registration information to be submitted in the English language, except an individual's name, the name of a company, and the name of a street may be submitted in a foreign language. All information, including these items, must be submitted using the English alphabet.

i. FDA Food Facility Registration Number

In order to identify and prevent duplicate and fraudulent registrations, TTB's temporary regulations generally require registering foreign producers to provide the unique FDA Food Facility Registration number(s) that is typically reported to FDA in connection with the importation of the producer's products pursuant to the FDA prior notice regulations at 21 CFR 1.281(a)(6)(ii) implementing 21 U.S.C. 381(m).[17] The FDA Food Facility Registration and prior notice requirements carry out the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act), which directs the FDA, as the food regulatory agency of the Department of Health and Human Services, to take steps to protect the public from a threatened or actual terrorist attack on the U.S. food supply and other food-related emergencies. See Public Law 107–188, sections 301–315.

Foreign distilled spirits operations, wine producers, and brewers who produce products for consumption in the United States generally must register their production facilities with FDA, see 21 U.S.C. 350d; 21 CFR 1.225, 1.227 (requirements applicable to foreign facilities that manufacture/process, pack, or hold food in storage for consumption in the United States).

Due to the long-established FDA Food Facility Registration requirement and its direct application in this context, TTB is not requiring a separate, potentially duplicative system for validation of foreign producers.

Rather, TTB's temporary regulations require the foreign producer to submit to TTB each FDA Food Facility Registration number that they have already obtained for FDA purposes prior to the importation of their distilled spirits, wine, or beer, into the United States. TTB believes requiring the Food Facility Registration numbers minimizes burden on foreign producers since it allows them to use identifying information already used for the importation of their products.

TTB understands there are cases where a foreign distilled spirits operation, wine producer, or brewer does not have an FDA Food Facility Registration number because its products are further manufactured or processed (including packaging) by another foreign facility before shipment to the United States. See 21 CFR 1.226(a). In such cases, TTB's temporary regulations require the registering foreign producer to submit the Food Facility Registration number of the facility further manufacturing or processing the distilled spirits, wine, or beer. Because the Food Facility Registration number is already required to be obtained from FDA and is generally required to be submitted to FDA in connection with the import under FDA's regulations, TTB expects that the foreign producer will be able to obtain such registration number directly from the other foreign facility or from the importer(s) to whom the foreign producer intends to assign CBMA tax benefits.

TTB also understands that a foreign producer that produces only alcohol for industrial use (as defined at 27 CFR 1.60 through 1.62) also will not have an FDA Food Facility Registration number when such alcohol is not reasonably expected to be directed to a food use. In such cases, TTB's temporary regulations provide that, in lieu of providing an FDA Food Facility Registration number, the foreign producer will certify that it does not have an FDA Food Facility Registration because FDA does not require one for its operations.

ii. Ownership Information

A foreign producer's assignments of CBMA tax benefits may be restricted by statutory controlled group rules that limit eligibility for tax benefits when there is common ownership with other producers.[18] It is the foreign producer's ultimate responsibility to ensure that it does not assign tax benefits in excess of the quantities allowed. However, to collect information necessary for enforcing the controlled group limitations in the event of noncompliance, the temporary regulations at new 27 CFR 27.256 require foreign producers who are under common ownership with other foreign or U.S. distilled spirits operations, wineries, or breweries also assigning CBMA tax benefits or taking CBMA tax benefits (if a domestic alcohol producer) to provide information for any individual or entity that owns 10 percent or more of the foreign producer.

Specifically, for each individual or entity with an ownership interest of 10 percent or more, the foreign producer must provide that owner's name, address, phone number, and, if the owner is a business entity, the owner's Employer Identification Number (EIN) issued by the U.S. Internal Revenue Service (for U.S. entities, and only if the domestic owner has an EIN) or Dun & Bradstreet Data Universal Numbering System (DUNS) number (for foreign entities, and only if the foreign owner has a DUNS).

[17] FDA prior notice regulations at 21 CFR 1.281(a)(6) require reporting of the foreign manufacturer's name, partial address, and FDA registration number or the name, full address, and the reason the registration number is not provided.

[18] The IRC provides that the quantity limitations for the CBMA tax benefits are applied to the entire controlled group and shall be apportioned among the members of the controlled group. See 26 U.S.C. 5051(a)(5)(B), 5001(c)(3)(C), and 5041(c)(3). For these purposes the term ''controlled group'' has meaning assigned to it by the IRC at 26 U.S.C. 1563(a), except that the phrase ''more than 50 percent'' is substituted for the phrase ''at least 80 percent'' in each place it appears in that paragraph. Pursuant to TTB regulations, these controlled group principles apply to common ownership situations in which one or more producers is not a corporation. See 26 U.S.C. 5001(c)(3)(C)(ii); 5041(c)(3); and 5051(a)(5)(A)–(B).

Given controlled group rules that require aggregation of certain ownership interests, as well as the statutory requirement to apply U.S. legal definitions of controlled groups to business arrangements outside the United States, TTB believes that requesting this information for those with an ownership interest of 10 percent or more is generally the least information necessary, reported in the most simplified and consistent way, to enforce controlled group limitations. Foreign producers whose owners do not have ownership interests in other alcohol producers will only be required to certify to that fact.

iii. Changes in Registration Information

TTB's temporary regulations at new 27 CFR 27.258 require foreign producers who register with TTB to update their registration within 60 days of any change to the information required as part of the original registration. These provisions are necessary to ensure that TTB is able to maintain the information necessary to timely and appropriately process CBMA import claims, to identify foreign producers, to take any appropriate enforcement action in the event of noncompliance with the controlled group limitations discussed above, and to prevent duplicate registrations. In addition, the foreign producer interface in myTTB will include prompts for the foreign producer to either confirm or update the ownership information on file with their registration. The foreign producer may be unable to assign CBMA tax benefits until the foreign producer updates its registration as required.

TTB understands that, under FDA rules, Food Facility Registrations must be canceled when ownership of a food facility changes, and the new owner must submit a new FDA registration for the facility within 60 days. See 21 CFR 1.234(b). If a facility goes out of business, FDA requires that the previous owner must cancel its FDA registration within 60 days. See 21 CFR 1.235.

TTB's temporary regulations do not require a foreign producer to cancel its TTB registration in the event of a change in ownership, but do require the foreign producer to update its information, for example, regarding its ownership and any FDA registration, within 60 days of a change. Depending on the circumstances, that may mean that the foreign producer cancels its TTB registration to be consistent with the FDA requirements.

iv. Electronic Registration

TTB temporary regulations at new 27 CFR 27.254(d) provide that foreign producers elect to make tax benefit assignments by registering with TTB electronically through myTTB. Collecting registration and tax benefit assignment information electronically is essential to TTB's administration of the CBMA importer refund program, as TTB must be able to validate the existence of the foreign producers, enforce controlled group limitations in the event of noncompliance, and ensure that statutory limitations on assignable tax benefit quantities are not exceeded. The requirement to file electronically is consistent with FDA regulations that also require foreign producers to register electronically under the Food Safety Modernization Act, see FDA, ''Amendments to Registration of Food Facilities; Final Rule,'' published in the **Federal Register** at 81 FR 45911, 51913 (2016). To address rare situations where foreign producers have obtained an electronic filing waiver from FDA under 21 CFR 1.245 and are also unable to interact with TTB electronically, TTB is amending its regulations at 27 CFR 27.221 to allow foreign producers to request an alternate method from TTB regulations.

B. Foreign Producer Assignment of CBMA Tax Benefits

Once a foreign producer has registered with TTB and received its TTB Foreign Producer ID, the foreign producer may begin assigning CBMA tax benefits to importers. These CBMA tax benefits are described in further detail below. TTB's temporary regulations set forth the information that a foreign producer must provide to TTB to assign these CBMA tax benefits. As previously noted, this assignment information will be collected electronically through an online interface for foreign producers within myTTB. The electronic submission of assignment information, in the prescribed format, will facilitate the streamlined processing of importer refund claims by allowing foreign producers to directly create a record of the assignment in TTB's systems.

To make an assignment, TTB's temporary regulations at 27 CFR 27.262 require a foreign producer to submit the following information for each assignment: (1) The calendar year for which the CBMA tax benefits are being assigned; (2) the importer to whom the assignment is made, identified by TTB permit number (or TTB-assigned reference number in cases in which an importer is not required to have a permit number); (3) the commodity for which the assignment is made (either distilled spirits, wine, or beer); (4) the category of reduced rate or credit being assigned; (5) the quantity of proof gallons, wine gallons, or beer barrels being assigned; and (6) certain certifications and acknowledgements that the assignment is in compliance with law and regulation. These requirements are generally consistent with those currently administered by CBP. See, *e.g.,* Craft Beverage Modernization Act (CBMA)—2022 Procedures and Requirements, CSMS #50484790 (Dec. 23, 2021); CBMA Assignment Certification, *https://www.cbp.gov/trade/basic-import-export/craft-beverage-modernization-tax-reform-act-2017/certification* (accessed June 22, 2022).

As described in section I(A) above, the law provides that a foreign producer may assign reduced tax rates or tax credits only on a limited quantity of imported alcohol during a calendar year. That is, each calendar year, there is a limited quantity that a foreign producer may assign to one or more importers. Under the temporary regulations set forth here, foreign producers may assign tax benefits for a calendar year starting no earlier than October 1 of the year prior, but must assign the benefits no later than December 31 of the calendar year for which the benefits would apply. For example, a foreign producer could make assignments of tax benefits for importations in 2024 starting October 1, 2023, but no later than December 31, 2024. After December 31, 2024, a foreign producer will not be allowed to assign, by any method, tax benefits for imports in 2024. TTB believes specifying this length of time for making assignments, that is, requiring that assignments be made during the calendar year in which they would apply to the import, is necessary to effectively administer these provisions. For example, it may be impossible to adequately determine or verify a foreign producer's controlled group status in prior years, and any assignments within a controlled group could affect other assignments among members of the controlled group. As a result, ensuring the assignment is made in the timeframes provided, and no later than the year during which the products are imported into the United States, minimizes the potential impact on affected entities and risk to the revenue.

It is important to note that the assignment of CBMA tax benefits applies to the calendar year of importation, not the calendar year of entry for consumption. That is, if in December 2023, alcohol products arrive within the Customs territory of the United States or, in the case of merchandise imported by vessel, within the limits of a port in the United States

with intent then and there to unlade such merchandise, this is an ''importation'' under the provisions of the CBMA, and in order to receive the CBMA tax benefits, the importer must have an assignment from the foreign producer for those products for the year 2023.[19] This is true even if the consumption entry for the products imported in December 2023 is not filed until January 2024; the importer must still have an assignment of CBMA tax benefits from the foreign producer for the year 2023 (and the foreign producer must have assigned those benefits no earlier than October 1, 2022, and no later than December 31, 2023). This is particularly important to note given that the administration of the CBMA provisions transfers from CBP to TTB beginning January 1, 2023. As explained above in section I(A) of this document, TTB will be responsible for processing and issuing refunds on foreign distilled spirits, wine, and beer entered for consumption on or after January 1, 2023.

In making an assignment, TTB's temporary regulations at new 27 CFR 27.262(b)(2) require the foreign producer to provide the importer's TTB permit number (or TTB-assigned reference number) rather than identify the importer to whom an assignment is made by name. As explained later in this document, importers must file claims with TTB based on their TTB permit number, except under limited circumstances in which the importer is not required to have a TTB permit number (that is, when the importer who imports alcohol does not have an FAA Act basic permit because it does not import alcohol products that are regulated by the FAA Act).[20] In those rare cases, to facilitate the claim process for CBMA tax benefits, the importer must request a TTB reference number for such purposes under the provisions set forth at 27 CFR 27.266 and must file the number in ACE as required by 27 CFR 27.264(c).

The foreign producer must make assignments of CBMA tax benefits based on the TTB permit number or TTB reference number. Otherwise, the assignment will not be valid. The foreign producer interface in myTTB is designed to provide the importer name associated with a TTB permit number for purposes of verifying that it is the permit of the intended recipient of the assignment. This process should greatly minimize the potential for spelling and other errors that arise with using names as identifiers. In the case of assignments based on a TTB-reference number, the foreign producer must obtain this number directly from the importer.[21]

As noted above, in addition to identifying the importer, the foreign producer must identify the commodity, the rate, and the tax benefit quantities assigned. The foreign producer must identify the alcohol commodity for the assignment, either distilled spirits, wine (including hard cider), or beer,[22] and the particular reduced rate or credit to be assigned. The reduced rates and credits available to be assigned are as follows:

- Each foreign distilled spirits operation may assign reduced tax rates of $2.70 per proof gallon on the first 100,000 proof gallons imported, and $13.34 per proof gallon on the next 22.13 million proof gallons imported into the United States.
- Each foreign wine producer may assign tax credits of $1 per wine gallon on the first 30,000 wine gallons of wine imported, 90 cents on the next 100,000 wine gallons imported, and 53.5 cents on the next 620,000 wine gallons imported. The tax credits apply to all wine tax rates,[23] except that CBMA provides for adjusted credits for imported wine eligible for the hard cider tax rate (6.2 cents, 5.6 cents, and 3.3 cents, respectively).
- Each foreign brewer may assign a reduced tax rate of $16 per barrel on the first 6,000,000 barrels imported into the United States.

A foreign producer must also specify the quantity of proof gallons, wine gallons, or beer barrels being assigned. Foreign producers may assign the CBMA tax benefits to multiple importers so long as a foreign producer's total assignments do not exceed the total quantities allowed by law, including taking into account controlled group limitations.[24] Finally, the foreign producer making an assignment must provide certain certifications attesting to the submitter's authority and the submitter's acknowledgement of statutory limitations on the quantities of assignments that may be made. The foreign producer must also acknowledge that providing erroneous or fraudulent information may cause TTB to revoke the foreign producer's eligibility to assign CBMA tax benefits. *See* section II(D) of this document, infra.

Under the temporary regulations, once a foreign producer assigns CBMA tax benefits to an importer, the foreign producer may not revoke or reduce the assigned benefits unless the importer elects not to take the assignment. This is consistent with the current administration of these benefits under CBP's responsibility; that is, under current CBP procedures, the foreign producer must make an Assignment Certification on company letterhead, signed by a duly authorized officer or employee of the foreign producer,[25] and once the importer is in possession of that assignment, there was not a mechanism by which the assignment could then be changed unilaterally by the foreign producer.

Information submitted to TTB by or on behalf of a foreign producer, including the assignment of tax benefits to an importer, is the return information of that foreign producer and TTB will not disclose such information except as authorized by law. Because users of the foreign producer interface must each be granted authority by the foreign producer to act on its behalf, TTB is authorized under 26 U.S.C. 6103 to disclose the foreign producer's return information to users in the online interface. Because assignments that a foreign producer makes to an importer are also the importer's return information, TTB may disclose information about the assignment to that importer under 26 U.S.C. 6103(e)(1) and (e)(7).

C. Importer Product Entry and Refund Claims Procedures

As stated above, beginning January 1, 2023, importers will no longer be eligible to apply the CBMA tax benefits

[19] TTB interprets its statutory mandate to ensure that the quantity of tax benefits assigned ''to any importer does not exceed [the quantity] produced by such foreign producer during the calendar year which were imported into the United States by such importer,'' see, *e.g.,* 26 U.S.C. 5041(a)(6)(b)(i)(I), as reiterating the requirement that the assignment year correspond to the calendar year of importation. New 27 CFR 27.262(c)(1) addresses general quantity limitations on foreign producer assignments.

[20] See footnote 11.

[21] TTB importer basic permit numbers are publicly available on the TTB website as they are issued under the FAA Act; any reference numbers issued by TTB for CBMA purposes are protected from disclosure by IRC section 6103.

[22] Importers are responsible for accurately classifying their products to CBP for tax purposes; foreign producers should confirm with importers that CBMA tax benefits are assigned correctly. For example, saké is usually classified as beer under the Internal Revenue Code, although it is subject to wine labeling requirements under the FAA Act. Saké importers will not be able to claim a refund of taxes paid to CBP at $18 a barrel if the foreign producer incorrectly assigns CBMA wine tax credits to the importer. Note that saké fortified with distilled spirits is taxed as a distilled spirits product under the IRC at the rate of $13.50 a proof gallon, see CBP Ruling NY A83563 (1996).

[23] Wine tax rates vary based on a number of factors such as alcohol and carbonation content. See 26 U.S.C. 5041.

[24] As explained in further detail in section II(A)(ii), the IRC provides that the quantity limitations on the reduced rates are applied to the entire controlled group.

[25] See *https://www.cbp.gov/trade/basic-import-export/craft-beverage-modernization-tax-reform-act-2017/certification?language_content_entity=en,* accessed June 14, 2022.

when paying tax to CBP. Instead, importers must pay the full tax rate initially to CBP and subsequently submit refund claims to TTB. The temporary regulations set forth the procedures under which importers will submit such claims. Importers are required to submit refund claims electronically through an importer claims interface that will be part of myTTB. TTB is providing the new electronic system, dedicated to the processing of CBMA importer claims, and requiring its use to support timely, effective, and accurate claims processing. TTB will separately publish alternate procedures for submitting claims and supporting documentation in the potentially rare cases where an importer is unable to file entry or entry summary data electronically in ACE and/or perfect a claim through the procedure established in the temporary regulations.

Prior to submitting a claim, the temporary regulations require importers to have filed the applicable entry summary information with CBP electronically through ACE. TTB has attempted to streamline the claims process by relying upon information the importer would have already filed with CBP about the applicable entries through ACE, as well as information about the foreign producer's assignment of benefits to that importer through TTB's electronic system.

The procedures under which foreign producers will assign CBMA tax benefits to importers are discussed in sections II(A) and (B) of this document. The procedures for importers to provide through ACE the data underlying a claim, as well as the procedures for filing a refund claim with TTB, are explained below.

i. Electronic Filing and Information Required on Product Entry Summary

Prior TTB regulations did not require electronic filing of import data, but set forth the information that an importer must file with CBP on the entry or entry summary if filing TTB data electronically in connection with distilled spirits, wines, and beer imported subject to tax. See 27 CFR 27.48. Among the information required from electronic filers is the importer's FAA Act basic permit number and certain information necessary to determine the amount of tax due on the imported product, such as the quantity and tax classification. See 27 CFR 27.48(a). In addition, under CBP's current rules for administering the CBMA reduced tax rates and credits, importers must submit certain information substantiating their eligibility for such reduced rates and credits. See CSMS #50484790 (Dec. 23, 2021), available at *https://content.govdelivery.com/bulletins/gd/USDHSCBP-3025636.* To facilitate TTB's electronic processing of CBMA importer claims in 2023 and onward, these temporary regulations at 27 CFR 27.264(c) require importers intending to file CBMA importer refund claims to file electronically their CBP entries and/or entry summaries along with TTB data required at 27 CFR 27.48(a)(2). The electronic filing must also include information consistent with that currently required by CBP. Existing ACE programming is expected to continue to collect this information, with certain definitional updates described further below.

To claim an assigned CBMA tax benefit on imported alcohol, CBP currently requires the importer to designate the entry summary with the claim indicator ''C'' at the time of entry summary or when submitting a post-summary correction (PSC). CBP further requires entry summaries marked with the ''C'' indicator to include seven data elements pertaining to qualification for the reduced rate or credit claimed. The seven data elements are:

(1) Controlled Group Name,
(2) Foreign Producer Identifier,
(3) Foreign Producer Name,
(4) Allocation Quantity,
(5) Flavor Content Credit Indicator,
(6) CBMA Rate Designation Code, and
(7) TTB Tax Rate.

These data elements are defined in the ''CBP and Trade Automated Interface Requirements—Entry Summary Create/Update'' (CATAIR) available at *https://www.cbp.gov/document/guidance/ace-abi-catair-entry-summary-createupdate.* See also ''ACE CBMA Tax Rates Table,'' *https://www.cbp.gov/trade/program-administration/entry-summary/cbma-2017/ace-cbma-tax-rates-table* (last modified February 16, 2021).

For shipments entered on or after January 1, 2023, the ACE CBMA claim indicator and associated data elements will continue to be required by TTB, as reflected in these temporary regulations and in the CATAIR, which will be updated. Importers may view the definitional updates that will be effective in 2023 in future CBP revisions to the CATAIR, available at *https://www.CBP.gov.* The updated requirements are integral to TTB's plans for electronic processing of CBMA import refund claims, as this information will allow TTB to associate a foreign producer's assignment of CBMA rates with an importer's entry of products subject to that assignment. This approach is also intended to be least disruptive to importers, providing a bridge between the CBMA requirements prior to 2023 and those applicable starting on January 1, 2023. TTB will consider the utility of the data elements as it begins administering the amended CBMA provisions, to determine whether changes are needed.

Importers intending to file a CBMA refund claim on alcohol products entered for consumption on or after January 1, 2023, will be required to include the claim indicator code ''C'' at the time of entry summary or PSC. This ''C'' indicator will signify that the importer has or reasonably expects to have a CBMA tax benefit assignment from the foreign producer and expects to file a refund claim with TTB based on the assigned reduced rate or credit. When designating an entry summary with the ''C'' indicator, importers will also be required to provide the following information for each line item on which they intend to claim a CBMA refund:

(1) Controlled Group Name. This is the name, for purposes of CBMA, that identifies the Controlled Group (*e.g.,* parent company name) and was previously collected by CBP through the CBMA Spreadsheet, Controlled Group Spreadsheet, and the CBP ACE data elements.[26] Importers that have received assignments from the same controlled group in calendar years prior to 2023 should continue to report the same controlled group name to TTB in 2023.

(2) Foreign Producer Identifier. This is the identifying code provided to the foreign producer by TTB when the foreign producer registers with TTB. The Foreign Producer Identifier identifies the foreign producer who made or is reasonably expected to make the CBMA tax benefit assignment applicable to the line item. This will differ from the identifier reported to CBP in prior years.

(3) Foreign Producer Name. This is the name of the foreign producer, registered with TTB, who made or is reasonably expected to make the CBMA tax benefit assignment.

[26] TTB understands that, when a foreign producer is not under common ownership with other alcohol producers, importers currently report to CBP the foreign producer's name in this field, consistent with the statutory provisions at 26 U.S.C. 5001(c)(3)(C), 5041(c)(6)(C), and 5051(a)(4)(C) stating that any importer electing to receive assigned tax benefits is ''deemed to be a member of the controlled group'' of the foreign producer. TTB does not interpret these provisions as imposing any overall limitation on the quantity of tax benefits that may be assigned to an importer by multiple unrelated foreign producers. As set forth in these regulations, controlled group limitations apply only to foreign and/or domestic producers under common ownership.

(4) Flavor Content Credit Indicator (for certain distilled spirits only). This is an indicator that the importer is using an eligible flavor content ''credit.'' This is used when depositing tax on imported distilled spirits at an effective tax rate based on eligible wine and/or flavor content, pursuant to 27 CFR 27.76 and 27.77.[27]

(5) CBMA Rate Designation Code. This is an ACE code that specifies the CBMA rate for purposes of the TTB refund claim. The CBMA Rate Designation Codes are provided in the 'CBMA Rate Designation Code' column on the 'ACE CBMA Rate Table' spreadsheet publicly available at *TTB.gov*.

(6) TTB Tax Rate (Confirmation). This is an ACE code that serves as a validation of the CBMA Rate Designation Code to ensure that the CBMA refund claim is based on the appropriate reduced tax rate or tax credit category. The TTB Tax Rate codes are provided in the ''TTB Tax Rate (Confirmation)'' column on the ''ACE CBMA Rate Table'' spreadsheet publicly available at *TTB.gov*.

TTB recognizes that, in order to provide this information accurately for the specific quantities of imported alcohol that will be subject to refund claims based on foreign producer assignments, the importer may need to report a shipment of a single product as multiple line items on the entry summary. For example, assume that a foreign winery assigns to an importer the entire 30,000 wine gallon allotment of the $1.00 credit and the entire 100,000 wine gallon allotment of the $0.90 credit. If the importer's first shipment from that foreign producer consists of 40,000 wine gallons of a single wine product, its entry summary will need two separate line items to account for the two different CBMA tax credits assigned to it—one line item for 30,000 wine gallons with the $1.00 credit and one line item for the remaining 10,000 gallons with the $0.90 credit.

ii. Quarterly Submission of CBMA Import Refund Claims

After a foreign producer has made an assignment of CBMA tax benefits to an importer, the importer has imported and entered for consumption the products subject to the assignment, and the importer has paid to CBP the tax due on those products, the importer is generally entitled to seek a refund from TTB based on the assigned CBMA tax benefits. The CBMA import refund claim provisions of the IRC provide that amounts allowed as a refund may be determined no less frequently than quarterly. See 26 U.S.C. 5001(c)(4)(A)(ii), 5041(c)(7)(A)(ii), and 5051(a)(6)(A)(ii). TTB's temporary regulations establish a quarterly refund determination period, as TTB believes that setting this refund period is necessary to provide TTB an opportunity to analyze entry data for potential over-assignment of CBMA tax benefits based on noncompliance with controlled group limitations. Consistent with this quarterly refund period, the temporary regulations provide that the calendar quarter must end before CBMA import refund claims may be filed for any consumption entries made during that quarter.

To minimize delay in issuing refunds on valid claims, TTB's temporary regulations and electronic filing systems are intended to facilitate electronic processing of CBMA import refund claims. By the end of each calendar quarter, or shortly thereafter, the foreign producer will have had the opportunity to submit its assignment to the importer and the importer will have filed its entry summary and paid the tax—the vast majority of the information required to substantiate the importer's CBMA import refund claim. That is, two key elements of a prospective CBMA import refund claim are (1) the foreign producer's assignment of the CBMA tax benefit and (2) the importer's entry data for the products subject to the foreign producer's assignment (including payment of tax to CBP). As a result, the process for an importer to submit a claim will primarily consist of electing to receive tax benefit assignments by logging in to the myTTB system for submitting CBMA importer refund claims, identifying the applicable claim period and the lines on the customs entry summary for which a claim will be filed, and otherwise verifying information the importer already submitted through ACE for the consumption entry. Importers are responsible for ensuring that the data that they have filed in ACE is accurate before submitting their claims through myTTB.

Importers may begin filing claims for each calendar quarter after that calendar quarter comes to an end. For example, claims for the first calendar quarter ending March 31 may be filed beginning on April 1. There are, however, factors that could delay an importer's ability to file a claim. First, the importer must have actually paid the tax due on the imported alcohol before filing a claim for the refund of the tax. Second, for purposes of processing the claim, particularly for automation of such processing, TTB intends to use ACE data. The data transfer from ACE to TTB's CBMA importer refund claims system is not instantaneous, and entry data may even take several days to become available.

CBMA importer refund claims will be treated in the same manner as an overpayment of tax. See 26 U.S.C. 5001(c)(4)(A)(ii), 5041(c)(7)(A)(ii), and 5051(a)(6)(A)(ii). Under the electronic submission process described above, TTB envisions that most valid claims will be paid shortly after they are filed. As with any claim related to an overpayment, if TTB determines that the importer is entitled to the amount claimed, TTB will pay the claim along with any required interest.[28] Because these claims are treated in the same manner as an overpayment of tax, the temporary regulations provide that the limitations periods set forth in 26 U.S.C. 6511 apply to CBMA importer refund claims.[29] The general rule in section 6511(a) requires a claim for refund of an overpayment to be filed by the taxpayer within three years from the time the return was filed or two years from the time the tax was paid, whichever period expires later.

iii. Electronic Submission of Claims

The temporary regulations require CBMA import refund claims to be filed

[27] If an importer uses an eligible wine and/or flavor content credit, the allowable refund will not exceed the tax paid.

[28] Interest is allowed at an established overpayment rate, which is applied to the excess tax amount determined under statute ''for the number of days in the filing period for which the refund . . . is being determined.'' See 26 U.S.C. 5001(c)(4)(B)(ii); 5041(c)(7)(B)(ii); and 5051(a)(6)(B)(ii) (effective January 1, 2023). Interest is disallowed in the case of refunds made within 90 days. See 26 U.S.C. 5001(c)(4)(D); 5041(c)(7)(D); and 5051(a)(6)(D) (''Rules For Refunds Within 90 Days'') (effective January 1, 2023). Thus, TTB will not pay interest if a refund is issued within 90 days after a claim is filed.

TTB will calculate the 90-day period and allowable interest starting with the date a complete and valid claim for refund is filed with TTB rather than the date of tax payment to CBP because no overpayment exists at entry as importers are not eligible for the tax benefits at the time of entry. In addition, until the importer submits a claim, no ''amount determined'' exists to be treated as an overpayment. Absent an importer's claim, TTB would not know how much tax would have been imposed at entry if the importer had been eligible for the tax benefits at the time of entry. As a result, interest will be applied to the lump-sum amount determined for each filing period rather than to varying amounts paid with individual entries.

[29] While in its June 2021 Report to Congress on Administration of Craft Beverage Modernization Act Refund Claims for Imported Alcohol, Treasury noted the potential for ambiguity with respect to the intersection between the Internal Revenue Code (IRC) and the Tariff Act, TTB interprets the statutory language to require the application of IRC statutes of limitations. This is also consistent with TTB's current practice of applying IRC statutes of limitations to importer claims that fall within TTB's delegated authority.

electronically through myTTB. We understand that this is consistent with CBP's implementation of the National Customs Automation Program, through which almost all imported alcohol entry and entry summary documentation is now filed electronically, in that case, in ACE. TTB recognizes that there may be times when unforeseen circumstances prevent an importer from filing entry or entry summary data electronically in ACE and/or perfecting a claim through the procedure established in the temporary regulations. TTB will publish alternate procedures governing electronic uploads of claims and supporting documentation for manual review to address these circumstances.

D. Procedures for Revocation of Eligibility

The statute requires the establishment of procedures for revoking the eligibility of a foreign producer to assign, and an importer to receive, CBMA tax benefits in cases where the foreign producer provides any erroneous or fraudulent information that TTB deems to be material to the foreign producer's qualification for such rates and credits. See 26 U.S.C. 5051(a)(4)(B)(iv) (beer); 5041(c)(6)(B)(iv) (wine); and 5001(c)(3)(B)(iv) (distilled spirits). Consistent with procedural due process principles, the temporary regulations set forth the procedures by which foreign producers will be notified of a contemplated revocation and by which such entities will be given an opportunity to be heard.

The temporary regulations provide that TTB may revoke a foreign producer's eligibility for CBMA tax benefits if the foreign producer—including anyone acting on its behalf—provides erroneous or fraudulent information in a foreign producer registration or in an assignment of CBMA tax benefits, and such erroneous or fraudulent information is determined by TTB to be material to qualification for CBMA tax benefits. Where TTB has reason to believe that the foreign producer has provided material erroneous or fraudulent information, TTB will provide written notice to the affected foreign producer of TTB's intent to revoke their eligibility for CBMA tax benefits. This notice will set forth the facts supporting TTB's contemplated revocation, specifically the information TTB believes to be erroneous or fraudulent and an explanation of its materiality to qualifying for CBMA tax benefits. This notice will be provided to the foreign producer's representatives registered with TTB.

Once a notice of contemplated revocation has been issued to a foreign producer the temporary regulations require the foreign producer to provide their written response within 45 days. This response should explain why the foreign producer believes the information at issue was not erroneous or fraudulent, or why such information is not material to the foreign producer's eligibility for CBMA tax benefits. The temporary regulations require this response to be submitted electronically through means prescribed by the appropriate TTB officer.

TTB will review the foreign producer response to the notice of contemplated revocation and come to an initial revocation determination. The contemplated revocation action will either be dismissed, or TTB will issue an order of revocation setting forth the facts and analysis supporting revocation. This revocation of eligibility is not to exceed three years, except where the foreign producer has previously had their eligibility revoked (in which case any subsequent revocation may be permanent). Further, in any case where a criminal conviction results from the provision of erroneous or fraudulent information, eligibility will be permanently revoked.

A foreign producer may appeal an order of revocation by submitting a written appeal to the appropriate TTB officer within 45 days of receipt of the order of revocation. The written appeal should explain why the foreign producer believes its revocation of eligibility is in error, supported by facts and analysis. The foreign producer must submit the appeal electronically through means prescribed by the appropriate TTB officer. TTB will review the appeal and, within 90 days of receipt, notify the requestor whether the appeal has been granted or denied. Consistent with the Administrative Procedure Act, the temporary regulations require a foreign producer to first exhaust its administrative appeals provided by regulation before seeking judicial review of a revocation. See 5 U.S.C. 704.

III. Public Participation

For submitting comments, please refer to the notice of proposed rulemaking on this subject published in the ''Proposed Rules'' section of this issue of the **Federal Register**.

IV. Regulatory Analysis and Notices

A. Executive Order 12866

It has been determined that this rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory impact assessment is not required.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), TTB has analyzed the potential economic effects of this action on small entities. In lieu of the initial regulatory flexibility analysis required to accompany proposed rules under 5 U.S.C. 603, section 605 allows the head of an agency to certify that a rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The following analysis provides the factual basis for TTB's certification under section 605.

i. Impact on Small Entities

While TTB believes the majority of businesses subject to the regulations are small businesses, the regulations in this document will not have a significant impact on those small entities. TTB is requiring the minimum information necessary to administer the statutory requirements of The Tax Relief Act concerning the CBMA tax benefits for imported alcohol. To the extent that any burden exists, such burden flows from the statute itself and the shift to the refund method of obtaining CBMA tax benefits. The electronic systems established by TTB will not pose a significant burden because the majority of the foreign producers and importers already file electronically with FDA and CBP respectively.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), TTB certifies that the regulations will not have a significant economic impact on a substantial number of small entities. The rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. TTB expects that the regulations will not have significant secondary or incidental effects on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), TTB will submit the regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the regulations on small businesses.

C. Paperwork Reduction Act

As noted previously in this document, TTB will administer the CBMA import refund program through two information collection components in its online filing system, ''myTTB.'' As described in new 27 CFR part 27, subpart P, Craft Beverage Modernization

Act Import Refund Claims, foreign producers will use the foreign producer interface to register with TTB, receive a TTB-issued Foreign Producer ID, and make assignments of CBMA tax benefits to importers. The information collection requirements relevant to foreign producer registration and assignments of CBMA benefits are described in new sections 27 CFR 27.254 through 27.264. Importers will use the CBMA importer claims interface to review and receive CBMA tax benefits assigned to them by foreign producers, review and select the ACE entries they identified as intended to be subject to a CBMA import refund claim, and submit refund claims pertaining to those assignments and entries. The information collection requirements relevant to CBMA importer claims are described in new sections 27 CFR 27.264 and 27.266.

For the foreign producer interface, TTB estimates that 19,000 respondents will respond an average of once per year to that information collection, resulting in 19,000 total annual responses, with each response taking an estimated 0.75 hours to 2 hours to complete, for a total estimated annual burden of 14,250 to 38,000 hours. This includes the time for reviewing instructions, searching existing information sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

For CBMA importer claims interface, TTB estimates that 7,000 respondents will respond 4 times per year, resulting in 28,000 total annual responses. TTB further estimates that each response will require 0.5 to 2 hours to complete, resulting in an estimated total of 14,000 to 56,000 annual burden hours. This includes the time for reviewing instructions, searching existing information sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As noted above, TTB has submitted the new information collection requirements to the Office of Management and Budget (OMB) for review and approval under one OMB control number, titled ''Information Related to Imported Alcohol Tax Refund Claims.'' The total annual burden for this new information collection request, which will contain the two components—for foreign producer registration and assignment and for importer claims—noted above, is estimated as follows:

- *Number of Respondents:* 26,000.
- *Number of Responses:* 47,000.
- *Total Burden Hours:* 28,250 to 94,000 hours.

Comments on these new recordkeeping and reporting requirements should be sent to OMB at Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503 or by email to *OIRA_submissions@omb.eop.gov.* A copy should also be sent to TTB by any of the methods previously described. Comments on the information collections should be submitted no later than November 22, 2022. Comments are specifically requested concerning:

- Whether the collections of information submitted to OMB are necessary for the proper performance of the functions of the Alcohol and Tobacco Tax and Trade Bureau, including whether the information will have practical utility;
- The accuracy of the estimated burdens associated with the collections of information submitted to OMB;
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the proposed collections of information, including the application of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

D. Inapplicability of Prior Notice

TTB is issuing this temporary rule without notice and prior opportunity for public comment because it is a rule of agency procedure exempt from notice and comment under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(A)). This temporary rule sets forth the procedures governing TTB's processing and administration of claims for CBMA tax benefits, including through establishing electronic systems designed to authenticate foreign producers, applying statutory limitations on the tax benefits that may be assigned, accelerating the approval and payment of valid refund claims, and mitigating revenue risks associated with the processing of claims. The rule prescribes the procedures for importers to receive CBMA tax benefits from TTB based on an assignment by foreign producers, as well as the procedures through which TTB may revoke foreign producers' eligibility to make assignments when erroneous or fraudulent information is submitted. The rule does not address the substance of the reduced tax rates or tax credits available under the CBMA.

In accordance with 26 U.S.C. 7805(e), TTB is soliciting public comment on the regulatory provisions contained in this temporary rule in a concurrently issued notice of proposed rulemaking.

List of Subjects

27 CFR Part 26

Alcohol and alcoholic beverages, Beer, Excise taxes, Imports, Liquors, Notice requirements, Reporting and recordkeeping requirements, Wine.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Excise taxes, Imports, Liquors, Notice requirements, Reporting and recordkeeping requirements, Wine.

Amendments to the Regulations

For the reasons discussed above in the preamble, TTB amends 27 CFR parts 26 and 27 as follows:

PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

■ 1. The authority citation for part 26 is revised to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111–5114, 5121, 5122–5124, 5131–5132, 5207, 5232, 5271, 5275, 5301, 5314, 5555, 6001, 6038E, 6065, 6109, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. Add § 26.208 to read as follows:

§ 26.208 Craft Beverage Modernization Act Tax benefits.

The procedures set forth in 27 CFR part 27, subpart P, apply to the application of Craft Beverage Modernization Act tax benefits for products produced in and imported from the Virgin Islands and entered for consumption subject to tax, except as subpart P would be manifestly incompatible with the intent of the other regulations in this part.

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

■ 3. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5382, 5555, 6038E, 6065, 6109, 6302, 7805.

§ 27.221 [Amended]

■ 4. Section 27.221 is amended by:
■ a. Adding the phrase ''or foreign producer'' after the word ''importer'' in paragraph (a) introductory text; and

■ b. Adding the phrase ''or Foreign Producer ID of the foreign producer'' after the word ''importer'' in paragraph (a)(1).

§§ 27.223 through 27.249 [Reserved]

■ 5. Add reserved §§ 27.223 through 27.249.

■ 6. Add subpart P, consisting of §§ 27.250 through 27.268, to read as follows:

Subpart P—Craft Beverage Modernization Act Import Refund Claims

Sec.
27.250 Scope.
27.252 Meaning of terms.
27.254 Registration of foreign producer.
27.256 Foreign producer ownership information.
27.258 Changes to foreign producer registration.
27.260 Persons authorized to act on behalf of foreign producer.
27.262 Foreign producer's assignment of CBMA tax benefits.
27.264 CBMA import refund claim submission.
27.266 Importer reference number.
27.268 Revocation of eligibility for CBMA tax benefits.

§ 27.250 Scope.

This subpart contains procedural requirements relative to the refunds of internal revenue tax for imported alcohol made available under the Craft Beverage Modernization Act provisions of the Internal Revenue Code of 1986 at 26 U.S.C. 5001(c)(4), 5041(c)(7), and 5051(a)(6). The refunds available under this subpart apply only to imported products entered for consumption on or after January 1, 2023.

§ 27.252 Meaning of terms.

When used in this subpart and in forms prescribed under this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms have the meaning ascribed in this section. Words in the plural form include the singular, and vice versa.

CBMA. The Craft Beverage Modernization Act provisions (sections 13801–13808) of the law commonly known as the Tax Cuts and Jobs Act (Pub. L. 115–97), as amended.

CBMA importer refund claims system. The electronic system established by TTB for the collection and review of claims for refund of internal revenue tax authorized under § 27.264. The CBMA importer refund claim system is available at *https://www.TTB.gov.*

CBMA tax benefits. The reduced tax rates or tax credits made available under CBMA at 26 U.S.C. 5001(c)(1) (distilled spirits), 5041(c)(1) (wine), and 5051(a)(1) (beer), and made assignable to importers by foreign distilled spirits operations, wineries, and brewers pursuant to sections 5001(c)(3), 5041(c)(6), and 5051(a)(4), respectively.

Foreign producer. A foreign distilled spirits operation, wine producer, or brewer.

Foreign Producer ID. The identification number issued to a foreign producer registered with TTB under § 27.254.

Foreign producer registration and assignment system. The electronic system established by TTB for the collection of information related to the registration of a foreign producer under §§ 27.254 through 27.260 and the assignment of CBMA tax benefits by such foreign producer under § 27.262. The foreign producer registration and assignment system is available at *https://www.TTB.gov.*

§ 27.254 Registration of foreign producer.

(a) *General.* A foreign producer electing to assign CBMA tax benefits to one or more importers must first register with TTB and receive a Foreign Producer ID.

(b) *Information required in registration.* A foreign producer must provide the following information through the foreign producer registration and assignment system to register with TTB and receive a Foreign Producer ID:

(1) The name, country of residence, and principal business address of the foreign producer;

(2) The name, title, country of residence, phone number, and email address of an employee or individual owner of the business who has authority to act for the business;

(3) If different than the individual identified in paragraph (b)(2) of this section, the name, address, phone number, and email address of the individual submitting the registration and authorized to act on the foreign producer's behalf;

(4) The Food Facility Registration number(s) obtained from the U.S. Food and Drug Administration (FDA) under 21 CFR 1.225 that may be reported to FDA under 21 CFR 1.281(a)(6)(ii) for the purposes of importing into the United States the foreign producer's alcohol products;

(5) Identifying information for the individuals and/or entities with ownership interests in the foreign producer as required by § 27.256, or a certification that § 27.256 does not require the foreign producer to provide such identifying information;

(6) Any prescribed certifications attesting to the authority of the individual submitting the registration and the truthfulness of the information submitted, the acknowledgement by the person submitting the registration that providing erroneous or fraudulent information may cause TTB to revoke the foreign producer's eligibility to assign CBMA tax benefits, and consent to receive electronically any written notice of contemplated revocation;

(7) Any additional information required by the appropriate TTB officer (including, through the foreign producer registration and assignment system) in order to verify a submitter's identity. Such information may include identifying numbers (*e.g.,* Employer Identification Number, Social Security Number) as provided in 26 U.S.C. 6109; and

(8) Any additional information required by the appropriate TTB officer on a case-by-case basis, to administer CBMA.

(c) *Language.* All registration information must be submitted in the English language except an individual's name, the name of a company, and the name of a street may be submitted in a foreign language. All information, including these items, must be submitted using the English alphabet.

(d) *Electronic registration required.* The foreign producer must submit the information required by paragraph (b) of this section electronically using the format provided by TTB.

§ 27.256 Foreign producer ownership information.

(a) *When required.* A foreign producer must provide, as part of the registration required by § 27.254, the identifying information set forth in paragraph (b) of this section only when one or more of the individuals or entities holding an ownership interest in the foreign producer of 10 percent or more also holds an ownership interest in any distilled spirits operation, winery, or brewery in the United States or in any other foreign producer that has assigned or will assign CBMA tax benefits for any calendar year in which the registering foreign producer also assigns such benefits. Otherwise, the foreign producer must only certify that this scenario does not apply.

(b) *Identifying information*—(1) *Individual owner.* For each individual holding an ownership interest of 10 percent or more in the foreign producer, the foreign producer must provide the following information when required by paragraph (a) of this section:

(i) The name, address, and phone number of the individual.

(ii) [Reserved]

(2) *Other entity.* For each entity (other than an individual) holding an ownership interest of 10 percent or more in the foreign producer, the foreign producer must provide the following information when required by paragraph (a) of this section:

(i) The name, address, and phone number of the entity;

(ii) If the entity is a U.S. entity, and if the entity has such a number, the entity's Employer Identification Number issued by the U.S. Internal Revenue Service; and

(iii) If the entity is a foreign entity, and if the entity has such a number, the Dun & Bradstreet Data Universal Numbering System number of the entity.

§ 27.258 Changes to foreign producer registration.

Whenever there is a change to any of the information submitted by the foreign producer under § 27.254, the foreign producer must update its registration with the new information within 60 days. Whenever the appropriate TTB officer determines that a foreign producer has failed to update its registration information as required, the foreign producer's registration is deemed invalid and the foreign producer will be unable to assign CBMA tax benefits until the foreign producer updates its registration as required or the appropriate TTB officer is satisfied that no such update is required.

§ 27.260 Persons authorized to act on behalf of foreign producer.

(a) *General.* A foreign producer registered with TTB to assign CBMA tax benefits must identify at least one person authorized to act on its behalf. The person who initially registers a foreign producer under § 27.254 must have authorization from the foreign producer to provide the required registration information, edit the foreign producer's registration information, designate additional persons who are also authorized by the foreign producer to act on the foreign producer's behalf or cancel the designations of authorized persons, and make assignments of CBMA tax benefits. All authorized representatives of the foreign producer must have authority to receive and respond to communications from TTB, including notice of contemplated revocation under § 27.268(b).

(b) *Authorization of additional persons.* (1) A foreign producer may authorize more than one person to act on its behalf within the foreign producer registration and assignment system. To designate an additional person as described above, the foreign producer must provide the following information:

(i) The name and email address of the person; and

(ii) The appropriate system role for the person, based on the functions in paragraph (a) of this section that the person is authorized to carry out.

(2) TTB may collect additional information from the additional person, as needed, to verify their identity. Such information may include identifying numbers (*e.g.,* Social Security Number) as provided in 26 U.S.C. 6109.

(c) *Proof of authority.* An individual acting on behalf of the foreign producer in the foreign producer registration and assignment system must maintain documentation establishing the individual's authority to act for the foreign producer and provide this documentation to TTB upon request. Any representative must be authorized by the foreign producer pursuant to a duly executed power of attorney or other document deemed acceptable to the appropriate TTB officer.

§ 27.262 Foreign producer's assignment of CBMA tax benefits.

(a) *General.* A foreign producer who has registered with TTB under § 27.254 and received a Foreign Producer ID may assign its CBMA tax benefits to importers, subject to the quantity limitations established by law.

(b) *Information required in assignment.* A foreign producer must provide the following information through the foreign producer registration and assignment system to make an assignment of CBMA tax benefits to an importer:

(1) The calendar year for which the CBMA tax benefits are being assigned;

(2) The TTB importer permit number or TTB-assigned reference number of the importer to whom the assignment is made;

(3) The Internal Revenue Code classification of the product for which the assignment is made, either distilled spirits, wine, or beer;

(4) The reduced tax rate or tax credit being assigned, either:

(i) For distilled spirits:

(A) The reduced tax rate of $2.70 per proof gallon on the first 100,000 proof gallons imported in the calendar year; or

(B) The reduced tax rate of $13.34 per proof gallon on the next 22.13 million proof gallons imported in the calendar year;

(ii) For wine:

(A) The tax credit of $1 per wine gallon on the first 30,000 wine gallons of wine imported in the calendar year (or credit of 6.2 cents per wine gallon for wine classified as ''hard cider'');

(B) The tax credit of 90 cents per wine gallon on the next 100,000 wine gallons imported in the calendar year (or credit of 5.6 cents per wine gallon for wine classified as ''hard cider''); or

(C) The tax credit of 53.5 cents per wine gallon on the next 620,000 wine gallons imported in the calendar year (or credit of 3.3 cents per wine gallon for wine classified as ''hard cider'');

(iii) For beer, the reduced tax rate of $16 per barrel on the first 6,000,000 barrels imported in the calendar year;

(5) The quantity by proof gallons, wine gallons, or beer barrels of the reduced tax rate or tax credit being assigned; and

(6) Any prescribed certifications attesting to the submitter's authority and the submitter's acknowledgement of statutory limitations on the quantities of assignments that may be made; and

(7) Any additional information required by the appropriate TTB officer on a case-by-case basis to administer CBMA.

(c) *Limitations*—(1) *General.* Quantities that may be assigned are limited to the number of proof gallons, wine gallons, and beer barrels in paragraph (b)(4) of this section, and also cannot exceed the quantities of the foreign producer's distilled spirits, wine, and beer that are reasonably projected to be imported into the United States during the specified calendar year by the importer receiving the assignment.

(2) *Controlled group rules.* Foreign and/or domestic producers under common ownership are grouped together when applying the quantity limitations in paragraph (c)(1) of this section. The quantity limitations apply to:

(i) Foreign and/or domestic producers in a ''parent-subsidiary controlled group,'' as defined in 26 U.S.C. 1563 and as modified by 26 U.S.C. 5051(5)(A)–(B);

(ii) Foreign and/or domestic producers in a ''brother-sister controlled group,'' as defined in 26 U.S.C. 1563 and as modified by 26 U.S.C. 5051(5)(A)–(B);

(iii) Foreign and/or domestic producers in a ''combined group,'' as defined in 26 U.S.C. 1563 and as modified by 26 U.S.C. 5051(5)(A)–(B);

(iv) Shared ownership structures similar to those described in paragraphs (c)(2)(i) through (iii) of this section, but where one or more producers under common ownership is not a corporation.

(d) *Timing.* Assignments of CBMA tax benefits may be submitted to TTB beginning no earlier than October 1st of the calendar year prior to the year for which the CBMA tax benefits are to be

assigned. Assignments of CBMA tax benefits must be submitted on or before December 31st of the calendar year for which the CBMA tax benefits are assigned.

(e) *Changes to assignments.* Once made, a foreign producer may not revoke or reduce an assignment of CBMA tax benefits unless the assignee importer has rejected the assignment.

(f) *Electronic registration required.* The foreign producer must submit the information required by paragraph (b) of this section electronically using the format provided by TTB.

§ 27.264 CBMA import refund claim submission.

(a) *General.* An importer who has elected to receive an assignment of CBMA tax benefits from a foreign producer may file a claim in accordance with this section for a partial refund of the tax paid to Customs and Border Protection (CBP) on alcohol produced by the assigning foreign producer and imported into the United States by that importer. Refunds are to be determined no more frequently than quarterly. The amount of refund is calculated as provided at 26 U.S.C. 5001(c)(4)(B) for distilled spirits, 5041(c)(7)(B) for wine, and 5051(a)(6)(B) for beer, on such products entered for consumption within the calendar quarter and for which the importer has received an assignment of CBMA tax benefits and paid to CBP the tax determined on such products.

(b) *Election to receive CBMA tax benefits.* An importer who has been assigned CBMA tax benefits by a foreign producer is presumed to have elected to receive such assignment unless and until the importer rejects the assignment through the online system prior to filing a claim for a refund based on that assignment.

(c) *Information required at entry summary.* To be eligible for a refund described in paragraph (a) of this section, the importer must submit electronically the information required by § 27.48(a)(2) for distilled spirits, wines, and beer imported into the United States subject to tax (in satisfaction of § 27.48(a)(2), an importer who does not have and is not required to obtain an FAA Act basic permit must instead submit its TTB-assigned reference number obtained under § 27.266). The importer must also indicate its intent to claim a refund on the entry summaries of the consumption entries for the alcohol subject to the prospective claim, either at the time of entry summary or through post-summary correction. These entry summaries must include the following information for each line item to be included in a claim for refund, in the electronic format prescribed by CBP:

(1) The TTB-issued Foreign Producer ID of the foreign producer who assigned CBMA tax benefits to the importer;

(2) The name of the foreign producer who assigned CBMA tax benefits to the importer;

(3) A statement of whether the importer is using an eligible flavor content credit pursuant to §§ 27.76 and 27.77; and

(4) An indicator or set of indicators specifying the particular CBMA reduced tax rate or tax credit assigned by the foreign producer of the alcohol.

(d) *Information required in claim submission.* To submit a claim for a refund described in paragraph (a) of this section, the importer must submit and/or verify, as appropriate, within the CBMA importer refund claims system the following information for each consumption entry line item to be included in the claim:

(1) The date of the entry for consumption;

(2) The year of importation, if different than the year of the entry for consumption;

(3) The entry summary number and the entry summary line number;

(4) The particular CBMA reduced tax rate or tax credit assigned by the foreign producer of the alcohol;

(5) The quantity of proof gallons, wine gallons, or beer barrels entered for consumption subject to the rate or credit identified in paragraph (d)(4) of this section;

(6) The TTB-issued Foreign Producer ID of the foreign producer who assigned CBMA tax benefits to the importer;

(7) The amount of tax determined and paid by the importer;

(8) The amount of the refund sought by the importer;

(9) Information allowing the appropriate TTB officer to arrange payment to the importer of the refund;

(10) Any prescribed certifications attesting to submitter's authority and the truthfulness of the information submitted; and

(11) Any additional information, as needed by TTB on a case-by-case basis, to administer CBMA.

(e) *Timing of claim submission.* Claims under this section may be submitted only after the end of the calendar quarter in which the entries for consumption were filed. The calendar quarters end on March 31, June 30, September 31, and December 31. Claims must be filed within the limitations period set forth at 26 U.S.C. 6511.

(f) *Authorization.* Each person authorized to sign or act on behalf of the importer must be authorized pursuant to a duly executed power of attorney. TTB may collect additional information from the authorized person, as needed, to verify their identity. Such information may include identifying numbers (*e.g.,* Social Security Number) as provided in 26 U.S.C. 6109.

(g) *Electronic filing required.* To be eligible for a refund under this section, an importer must submit the information required by paragraphs (c) and (d) of this section electronically in the formats prescribed by CBP and TTB, respectively.

§ 27.266 Importer reference number.

An importer who does not have and is not required to obtain an FAA Act basic permit must request and receive a reference number from the appropriate TTB officer before receiving assignments of CBMA tax benefits from foreign producers under § 27.262. The importer must provide this reference number to any foreign producers that will assign CBMA tax benefits to the importer.

§ 27.268 Revocation of eligibility for CBMA tax benefits.

(a) *Revocation of foreign producer's eligibility.* A foreign producer who provides erroneous or fraudulent information that the appropriate TTB officer determines is material to the eligibility of the foreign producer to assign CBMA tax benefits under § 27.262 may have such eligibility revoked, for a period not to exceed three calendar years following the year of revocation, under the procedures set forth in paragraphs (b) through (e) of this section. If the foreign producer has previously had its eligibility revoked under this section, any subsequent revocation may instead be permanent. In any case where a criminal conviction results from the foreign producer's providing of erroneous or fraudulent information as described above, eligibility will be permanently revoked.

(b) *Notice of contemplated revocation.* Where the appropriate TTB officer has reason to believe that a foreign producer, including anyone acting on behalf of a foreign producer, has provided erroneous or fraudulent information as described in paragraph (a) of this section, such officer will provide a written notice of contemplated revocation to the foreign producer. Such notice will set forth the facts and analysis supporting the contemplated revocation, as well as the period of contemplated revocation. Written notice will be provided electronically to persons authorized to act on behalf of the foreign producer

within the online foreign producer registration and assignment system as provided in § 27.260.

(c) *Response to contemplated revocation.* A foreign producer in receipt of a notice of contemplated revocation, or its representative, may submit a written response to the appropriate TTB officer explaining why the foreign producer believes the information at issue was not erroneous or fraudulent, or why such information is not material to the foreign producer qualifying for CBMA tax benefits. This response must be submitted within 45 days of receipt of the written notice of contemplated revocation and must be submitted electronically through means specified in such notice. Any representative of the foreign producer in these proceedings must be authorized by the foreign producer pursuant to a duly executed power of attorney or other document deemed acceptable to the appropriate TTB officer. If the foreign producer does not submit a response within 45 days, the appropriate TTB officer will issue an order of revocation as set forth in paragraph (d) of this section.

(d) *Revocation determination.* Following receipt of a foreign producer's response to a contemplated revocation, the appropriate TTB officer will consider the arguments raised in the response and issue an order either dismissing the contemplated revocation or imposing a revocation as authorized under paragraph (a) of this section. Any order imposing revocation will set forth the facts and analysis supporting the revocation, taking into consideration any response provided by the foreign producer under paragraph (c) of this section. The order will be provided electronically to the foreign producer or the foreign producer's representative in the matter.

(e) *Review*—(1) *Appeal.* A foreign producer may appeal an order of revocation issued under paragraph (d) of this section by submitting a written appeal to the appropriate TTB officer within 45 days of receipt of such order. The appeal must explain why the foreign producer believes its revocation is in error, supported by facts and analysis. The appeal must be submitted electronically through the means specified in the order of revocation. The appropriate TTB officer will issue a final decision by notifying the foreign producer within 90 days of receipt of the appeal whether the appeal is granted or denied, and the reasons for the determination. The appropriate TTB officer may extend this period of time once by an additional 90 days if the appropriate TTB officer requires additional time to consider the issues presented by an appeal and must notify the foreign producer of the extension within the initial 90-day period. If the appropriate TTB officer fails to issue a decision granting or denying the appeal within the applicable deadline, the appeal is denied and such denial will be considered a final decision.

(2) *Judicial review.* A final decision from the appropriate TTB officer following appeal is required prior to application to the Federal courts for review of any order of revocation.

(f) *Notice to affected importers.* In any instance where an order imposing revocation of a foreign producer's eligibility for CBMA tax benefits is issued under paragraph (d) of this section, the appropriate TTB officer will notify any importer having an assignment of CBMA tax benefits from that foreign producer of the revocation. In the event that the revocation is appealed and the appeal is granted pursuant to paragraph (e) of this section, the appropriate TTB officer will notify any importer having an assignment from that foreign producer of the dismissal of such revocation.

Signed: September 14, 2022.

Mary Ryan,

Administrator.

Approved: September 14, 2022.

Thomas C. West, Jr.,

Deputy Assistant Secretary (Tax Policy).

[FR Doc. 2022–20412 Filed 9–22–22; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0065]

Special Local Regulation; Kailua Bay, Ironman World Championship, Kailua-Kona, Hawaii

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation for the Ironman Ho'ala practice swim and Ironman World Championship Triathlon on October 2, 6, and 8, 2022, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Fourteenth Coast Guard District identifies the regulated area for this event on certain waters of Kailua Bay, Kailua-Kona, Hawaii. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations in 33 CFR 100.1402 will be enforced from 3:45 through 11 a.m. each day on October 2, 6, and 8, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Chief Bradley Lindsey, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone (808) 541–4363, email *Bradley.w.lindsey@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation for the Ironman Ho'ala practice swim and Ironman World Championship Triathlon on October 2, 6, and 8, 2022. The regulated area covers all navigable waters of Kailua Bay within 100 yards adjacent to the 2.4 mile (4,224 yards) swim course, starting at the shoreline northeast of Kailua Pier at 19°38.341′ N, 155°59.782′ W; thence southeast to 19°37.416′ N, 155°59.444′ W; thence southwest to 19°37.397′ N, 155°59.500′ W; thence northwest to 19°38.150′ N, 155°59.760′ W, thence north and back to Kailua Pier at 19°38.398′ N, 155°59.816′ W, and returning along the pier to the originating point on the shoreline at 19°38.341′ N, 155°59.782′ W. All datum are North American Datum of 1983 (NAD 83).

Entry into, transiting, or anchoring within the special local regulation is prohibited unless authorized by the Captain of the Port Honolulu or their designated on-scene representative. The Captain of the Port's designated on-scene representative may be contacted via VHF Channel 16.

This document is issued under authority of 33 CFR 100.1402 and 5 U.S.C. 552 (a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this special local regulation via Broadcast Notice to Mariners. The Captain of the Port Honolulu or their on-scene representative may be contacted via VHF Channel 16.

Dated: September 11, 2022.

A.L. Kirksey,

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

[FR Doc. 2022–20614 Filed 9–22–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0800]

Safety Zone; Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for fireworks at The Wharf D.C. on October 12, 2022, to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District identifies the safety zone for this event in Washington, DC. During the enforcement period, the operator of any vessel in the safety zone must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 165.506 will be enforced for the location identified as item (1) of table 2 to paragraph (h)(2) from 7 p.m. until 9 p.m. on October 12, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email MST2 Courtney Perry, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2596, email *Courtney.E.Perry@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulation 33 CFR 165.506 for fireworks at The Wharf D.C. from 7 p.m. to 9 p.m. on October 12, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District, § 165.506, specifies the location of the safety zone for the fireworks show in item 1 to table 2 to paragraph (h)(2). The safety zone encompasses portions of the Washington Channel in the Upper Potomac River. As reflected in § 165.506(d), during the enforcement period if you are the operator of a vessel in the safety zone you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

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

Dated: September 19, 2022.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2022–20654 Filed 9–22–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 220216–0049; RTID 0648–XC377]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2022 total allowable catch (TAC) of pollock for Statistical Area 630 in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 21, 2022, through 2400 hours, A.l.t., December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2022 TAC of pollock in Statistical Area 630 of the GOA is 30,068 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish in the GOA (87 FR 11599, March 2, 2022).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2022 TAC of pollock in Statistical Area 630 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 29,568 mt and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the closure of pollock in Statistical Area 630 in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 20, 2022.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2022.

Kelly Denit,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20775 Filed 9–21–22; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 22023–0054; RTID 0648–XC393]

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of non-Community Development Quota (CDQ) sablefish by vessels using trawl gear in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2022 non-CDQ sablefish initial total allowable catch (ITAC) in the Bering Sea subarea of the BSAI will be reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 21, 2022, through 2400 hours, A.l.t., December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2022 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI is 2,237 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish in the BSAI (87 FR 11626, March 2, 2022). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 2022 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI will soon be reached. Therefore, NMFS is requiring that non-CDQ sablefish caught with vessels using trawl gear in the Bering Sea subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the prohibited retention of non-CDQ sablefish by vessels using trawl gear in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 20, 2022.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2022.

Kelly Denit,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20793 Filed 9–21–22; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 184
Friday, September 23, 2022

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0395; Project Identifier MCAI–2021–01048–T]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA proposes to revise a notice of proposed rulemaking (NPRM) to supersede Airworthiness Directive (AD) 2018–18–05, which applies to certain ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes; and AD 2020–09–16, which applies to all ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. This action revises the NPRM by including additional new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products. Since this action would impose an additional burden over those in the NPRM, the FAA is reopening the comment period to allow the public the chance to comment on these changes.

DATES: The FAA must receive comments on this SNPRM by November 7, 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:* Hand deliver to Mail address above.

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0395.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0395; 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 SNPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0395; Project Identifier MCAI–2021–01048–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

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 SNPRM 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 SNPRM, 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 SNPRM. Submissions containing CBI should be sent to Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2018–18–05, Amendment 39–19384 (83 FR 44463, August 31, 2018) (AD 2018–18–05), for certain ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. AD 2018–18–05 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. The FAA issued AD 2018–18–05 to prevent reduced structural integrity of the airplane.

The FAA also issued AD 2020–09–16, Amendment 39–19912 (85 FR 29596, May 18, 2020) (AD 2020–09–16), which applies to all ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. AD 2020–09–16 requires revising the existing

maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2020–09–16 to address reduced structural integrity of the airplane. AD 2020–09–16 specifies that accomplishing the revision required by paragraph (g) of that AD terminates all requirements of AD 2018–18–05.

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD to supersede AD 2018–18–05 and AD 2020–09–16 that would apply to all ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. The NPRM published in the **Federal Register** on April 6, 2022 (87 FR 19818) (the NPRM). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD 2021–0211, dated September 17, 2021 (EASA AD 2021–0211), to correct an unsafe condition. The NPRM proposed to retain the requirements of AD 2020–09–16. The NPRM also proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

Actions Since the NPRM Was Issued

Since the FAA issued the NPRM, EASA superseded EASA AD 2021–0211 and issued EASA AD 2022–0062, dated April 8, 2022 (EASA AD 2022–0062) (also referred to after this as the MCAI). The MCAI states that since EASA AD 2021–0211 was issued ATR published Revision 11 of the ATR 42–200/–300/–320 Time Limits Document (TLD), which includes new or more restrictive maintenance tasks and airworthiness limitations.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0395.

Comments

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

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0062 describes new or more restrictive maintenance tasks and airworthiness limitations for airplane structures and components.

This proposed AD would also require EASA AD 2019–0256, dated October 17, 2019, which the Director of the Federal Register approved for incorporation by reference as of June 22, 2020 (85 FR 29596, May 18, 2020).

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

FAA's Determination

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

Certain changes described above expand the scope of the NPRM. As a result, it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Proposed AD Requirements in This SNPRM

This proposed AD would retain the requirements of AD 2020–09–16. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive maintenance tasks and airworthiness limitations, which are specified in EASA AD 2022–0062 described previously, as proposed for incorporation by reference. Any differences with EASA AD 2022–0062 are identified as exceptions in the regulatory text of this AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (m)(1) of this proposed AD.

Costs of Compliance

The FAA estimates that this proposed AD affects 26 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2020–09–16 to be $7,650 (90 work-hours × $85 per work-hour).

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2018–18–05, Amendment 39–19384 (83 FR 44463, August 31, 2018); and AD 2020–09–16, Amendment 39–19912 (85 FR 29596, May 18, 2020); and

■ b. Adding the following new AD:

ATR–GIE Avions de Transport Régional: Docket No. FAA–2022–0395; Project Identifier MCAI–2021–01048–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 7, 2022.

(b) Affected ADs

This AD replaces AD 2018–18–05, Amendment 39–19384 (83 FR 44463, August 31, 2018); and AD 2020–09–16, Amendment 39–19912 (85 FR 29596, May 18, 2020) (AD 2020–09–16).

(c) Applicability

This AD applies to all ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2020–09–16, with a new terminating action. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0256, dated October 17, 2019 (EASA AD 2019–0256). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2019–0256, With No Changes

This paragraph restates the exceptions specified in paragraph (h) of AD 2020–09–16, with no changes.

(1) The requirements specified in paragraphs (1) and (3) of EASA AD 2019–0256 do not apply to this AD.

(2) Where paragraph (2) of EASA AD 2019–0256 refers to its effective date, this AD requires using June 22, 2020 (the effective date of AD 2020–09–16).

(3) Paragraph (4) of EASA AD 2019–0256 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (4) of EASA AD 2019–0256 within 90 days after June 22, 2020 (the effective date of AD 2020–09–16).

(4) The initial compliance time for doing the tasks specified in paragraph (4) of EASA AD 2019–0256 is at the applicable ''associated thresholds'' specified in paragraph (4) of EASA AD 2019–0256, or within 90 days after June 22, 2020 (the effective date of AD 2020–09–16), whichever occurs later.

(5) The provisions specified in paragraphs (5) and (6) of EASA AD 2019–0256 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2019–0256 does not apply to this AD.

(i) Retained Restrictions on Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs), With New Exception

This paragraph restates the requirements of paragraph (i) of AD 2020–09–16, with a new exception. Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2019–0256.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0062, dated April 8, 2022 (EASA AD 2022–0062). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2022–0062

(1) The requirements specified in paragraph (1) and (2) of EASA AD 2022–0062 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0062 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0062 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0062, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0062 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2022–0062 does not apply to this AD.

(l) New Provisions for Alternative Actions, Intervals, and CDCCLs

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0062.

(m) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* 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 responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or ATR–GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If

(n) Related Information

(1) For EASA AD 2022–0062, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0395.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.*

Issued on September 19, 2022.

Christina Underwood,

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

[FR Doc. 2022–20616 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1115; Airspace Docket No. 22–AGL–10]

RIN 2120–AA66

Proposed Amendment of V–181 and T–400, and Revocation of V–250 and the Yankton, SD, Low Altitude Reporting Point in the Vicinity of Yankton, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend VHF Omnidirectional Range (VOR) Federal airway V–181 and Area Navigation (RNAV) route T–400 and revoke VOR Federal airway V–250 and the Yankton, SD, Low Altitude Reporting Point. The FAA is proposing this action due to the planned decommissioning of the VOR portion of the Yankton, SD, VOR/Distance Measuring Equipment (VOR/DME) navigational aid (NAVAID). The Yankton VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before November 7, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–1115; Airspace Docket No. 22–AGL–10 at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2022–1115 Airspace; Docket No. 22–AGL–10) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–1115; Airspace Docket No. 22–AGL–10.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

The FAA is planning to decommission the Yankton, SD, VOR in April 2023. The Yankton VOR was one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the

Federal Register of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082.

Although the VOR portion of the Yankton, SD, VOR/DME is planned for decommissioning, the co-located DME portion of the NAVAID is being retained to support NextGen PBN flight procedure requirements.

The air traffic service (ATS) routes effected by the Yankton VOR decommissioning are VOR Federal airways V–181 and V–250, and RNAV route T–400. With the planned decommissioning of the Yankton VOR, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of the affected ATS routes. As such, the proposed modifications to V–181 would result in a gap being created in the airway and to T–400 would result in a minor adjustment of the route with one route point being changed. Additionally, the proposed modifications to V–250 and to the Yankton low altitude reporting point would result in the airway and the low altitude reporting point being revoked.

To overcome the proposed modifications and revocations to the affected ATS routes and low altitude reporting point, instrument flight rules (IFR) traffic could use portions of adjacent VOR Federal airways, including V–80, V–120, V–148, and V–462, or receive air traffic control (ATC) radar vectors to fly around or through the affected area. Pilots equipped with RNAV capabilities could also navigate using RNAV routes T–302, T–348, T–400, and T–405, or point to point using the existing NAVAIDs and fixes that would remain in place to support continued operations though the affected area. Visual flight rules (VFR) pilots who elect to navigate via the affected ATS routes could also take advantage of the adjacent ATS routes or ATC services listed previously.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by modifying VOR Federal airway V–181 and RNAV route T–400, and revoking V–250 and the Yankton, SD, low altitude reporting point. The ATS route and low altitude reporting point modifications and revocations are due to the planned decommissioning of the Yankton, SD, VOR. The proposed ATS route and low altitude reporting point actions are described below.

V–181: V–181 currently extends between the Kirksville, MO, VOR/Tactical Air Navigation (VORTAC) and the Grand Forks, ND, VOR/DME. The FAA proposes to remove the airway segment overlying the Yankton VOR/DME between the Norfolk, NE, VOR/DME and the Sioux Falls, SD, VORTAC. Additional changes to other portions of the airway have been proposed in a separate NPRM. The unaffected portions of the existing airway would remain as charted.

V–250: V–250 currently extends between the O'Neill, NE, VORTAC and the Yankton, SD, VOR/DME. The FAA proposes to remove the airway in its entirety.

T–400: T–400 currently extends between the LLUKY, NE, waypoint (WP) and the ZOSAG, MN, WP. The FAA proposes to replace the IMUPP, SD, WP with the FIITS, SD, WP to define the route crossing point between T–400 and T–405. The unaffected portions of the existing route would remain as charted. The full RNAV T-route description is listed in ''The Proposed Amendment'' section, below.

Yankton, SD: The FAA proposes to remove the Yankton, SD, low altitude reporting point as it would no longer be required by ATC due to the Yankton VOR being decommissioned.

VOR Federal airways are published in paragraph 6010(a), United States Area Navigation Routes (T-routes) are published in paragraph 6011, and Domestic Low Altitude Reporting Points are published in paragraph 7001 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The ATS routes and low altitude reporting point listed in this document would be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6010(a). Domestic VOR Federal Airways.

* * * * *

V–181 [Amended]

From Kirksville, MO; Lamoni, IA; Omaha, IA; to Norfolk, NE. From Sioux Falls, SD; Watertown, SD; 34 miles, 24 miles, 34 MSL, Fargo, ND; to Grand Forks, ND.

* * * * *

V–250 [Removed]

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–400 LLUKY, NE to ZOSAG, MN [Amended]

LLUKY, NE	WP	(Lat. 42°29′20.26″ N, long. 098°38′11.44″ W).
FIITS, SD	WP	(Lat. 42°55′06.67″ N, long. 097°23′06.12″ W).
DURWN, MN	WP	(Lat. 43°38′48.91″ N, long. 095°34′55.87″ W).

MEMCO, MN	WP	(Lat. 44°13′11.42″ N, long. 093°54′45.23″ W).
ZOSAG, MN	WP	(Lat. 44°49′30.74″ N, long. 093°26′34.08″ W).

* * * * *

Paragraph 7001 Domestic Low Altitude Reporting Points.

* * * * *

Yankton, SD [Removed]

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Issued in Washington, DC, on September 20, 2022.

Eric S. Jennings,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–20660 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 26 and 27

[Docket No. TTB–2022–0009; Notice No. 215; Re: T.D. TTB–186]

RIN 1513–AC89

Implementation of Refund Procedures for Craft Beverage Modernization Act Federal Excise Tax Benefits Applicable to Imported Alcohol

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Elsewhere in this issue of the **Federal Register**, by means of a temporary rule, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is implementing certain changes made to the Internal Revenue Code by the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Tax Relief Act of 2020), which amended the Craft Beverage Modernization Act (CBMA) provisions of the Tax Cuts and Jobs Act of 2017. The temporary rule establishes procedures for taking advantage of quantity-limited reduced tax rates and tax credits applicable to imported alcohol products. The text of the regulations in that temporary rule serves as the text of the proposed regulations. This document also proposes to amend the regulations to clarify that a foreign producer may not assign CBMA tax benefits on distilled spirits, wine, or beer unless it produces the product. In this document, TTB is soliciting comments on the regulatory amendments adopted in the temporary rule and on the amendment proposed in this notice of proposed rulemaking.

DATES: Comments must be received on or before November 22, 2022.

ADDRESSES: You may electronically submit comments to TTB on this proposal and view copies of this document, its supporting materials, and any comments TTB receives on it within Docket No. TTB–2022–0009 as posted at *https://www.regulations.gov.* A direct link to that docket is available on the TTB website at *https://www.ttb.gov/laws-and-regulations/all-rulemaking* under Notice No. 186. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005. Please see the Public Participation section of this document for further information on the comments requested regarding this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT: Jesse Longbrake, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone (202) 453–1039, ext. 066.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 2017, the President signed into law the Tax Cuts and Jobs Act, which among other things amended provisions of the Internal Revenue Code (IRC) related to excise taxes on beer, wine, and distilled spirits; the section of the Tax Cuts and Jobs Act containing these provisions is referred to as the Craft Beverage Modernization Act (CBMA). Beginning in 2018, CBMA made quantity-limited tax benefits (CBMA tax benefits) available to all producers of distilled spirits, wine, and beer, domestic and foreign. The CBMA tax benefits were initially limited to calendar years 2018 and 2019 but were subsequently extended and then made permanent by the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Tax Relief Act of 2020).[1]

The Tax Relief Act of 2020 also transferred responsibility for administering the CBMA tax benefits for imported alcohol from the Department of Homeland Security's U.S. Customs and Border Protection (CBP) to the Department of the Treasury (Treasury). Specifically, for alcohol entered for consumption in the United States after December 31, 2022,[2] importers will no longer be eligible for CBMA tax benefits when paying tax to CBP. Rather, importers will be required to pay the full tax rate to CBP and submit refund claims to Treasury to receive the lower rates. Importers will submit refund claims to TTB for the difference between the tax paid at the full rate and the amount that would have been paid if tax liability had been calculated using the tax benefits assigned to them by foreign producers.

Elsewhere in this issue of the **Federal Register**, TTB is publishing temporary regulations making amendments to parts 26 and 27 of the TTB regulations (27 CFR parts 26 and 27). The principal changes establish the procedures for taking advantage of the CBMA tax benefits applicable to imported alcohol products. The text of the temporary regulations serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

Clarification That Foreign Producers May Assign CBMA Tax Benefits Only for Products They Produce

In this document, TTB is also proposing to amend the regulations to clarify that a foreign producer may not assign CBMA tax benefits to U.S. importers in cases where the foreign producer has not produced the product. As described in more detail in the temporary rule, foreign producers assign CBMA tax benefits to U.S. importers, who then elect to take them. See 26 U.S.C. 5001(c)(3), 5041(c)(6), and 5051(a)(4). However, the IRC does not define the term ''foreign producer.'' The

[1] See Public Law 115–97, sections 13801–13808 (CBMA provisions of the law commonly known as the Tax Cuts and Jobs Act); Public Law 116–94, section 144 (Further Consolidated Appropriations Act, 2020 extending and amending CBMA provisions); Public Law 116–260, Division EE, sections 106–110 (Tax Relief Act of 2020 making CBMA provisions permanent with amendments).

[2] TTB's temporary rule implements statutory tax refund provisions that apply to imported products ''removed'' after December 31, 2022. See 26 U.S.C. 5001(c)(4), 5041(c)(7), and 5051(a)(6)). TTB regulations at 27 CFR 27.48 provide that any internal revenue taxes payable on imported distilled spirits, wines, and beer upon release from customs custody are collected, accounted for, and deposited as internal revenue collections by U.S. Customs and Border Protection (CBP) in accordance with CBP requirements. There are different types of entry under CBP regulations, and ''entered for consumption'' refers to a type of customs entry filed to introduce the goods into the stream of U.S. commerce. Such entries are subject to applicable tax and duties. Accordingly, consistent with TTB regulations and CBP policies, TTB interprets the term ''removed'' as used in the CBMA tax refund statutory provisions for imported products to mean ''entered for consumption.'' For purposes of the temporary rule, ''entered for consumption'' includes withdrawal from a CBP bonded warehouse for consumption.

temporary rule defines the term ''foreign producer'' as ''a foreign distilled spirits operation, wine producer, or brewer.'' In the case of wine or beer produced outside the United States and imported into the United States, CBMA allows the person who produced the wine to assign the tax benefit, 26 U.S.C. 5041(c)(6)(A), and allows the brewer (*i.e.,* the producer) to assign the tax benefit, 26 U.S.C 5051(a)(4)(A), 5052(d) (definition of brewer).

For distilled spirits produced outside the United States and imported into the United States, CBMA allows a distilled spirits operation to assign tax benefits. 26 U.S.C. 5001(c)(3). Although the definition of ''distilled spirits operation'' includes activities that do not constitute production, see 26 U.S.C. 5002(a)(2), 5171(a), CBMA also states that the assignment of tax benefits for distilled spirits cannot exceed quantities *produced* by such foreign distilled spirits operation. See 26 U.S.C. 5001(c)(3)(B)(i)(I). TTB interprets this limitation to mean that a foreign distilled spirits operation cannot assign tax benefits on distilled spirits unless such operation has produced the distilled spirits. This interpretation is consistent with the same limitations imposed on foreign producers of wine and beer. See 26 U.S.C. 5041(c)(6)(A), (c)(6)(B)(i)(I) and 5051(a)(4)(A), (a)(4)(B)(i)(I).

Therefore, in this document, TTB is proposing to update 27 CFR 27.262 to include in paragraph (c)(1) the statement that a foreign producer may not assign CBMA tax benefits on distilled spirits, wine, or beer unless it produces the product. Paragraph (c), as set forth in the temporary rule, currently addresses limitations to assignments generally, including the limitations on the overall quantities of product that may be assigned and the controlled group limitations that apply to foreign and domestic producers under common ownership. TTB is soliciting comment on this proposal because it has not been previously addressed by regulation and because this proposal may differ from CBP's administration of the CBMA with regard to certain assignments involving distilled spirits.

Public Participation

Comments Invited

TTB requests comments from interested members of the public on the proposed changes to our regulations in 27 CFR part 27, which are described in detail in the temporary rule issued in conjunction with this notice of proposed rulemaking and published elsewhere in this issue of the **Federal Register** and on the additional regulatory amendment discussed in this document. TTB is particularly interested in comments on whether TTB should propose a definition of ''distilled spirits operation'' consistent with the discussion of that term in this document.

Submitting Comments

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the *Regulations.gov* website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice No. 215 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You also may submit a comment requesting a public hearing on this proposal. The TTB Administrator reserves the right to determine whether to hold a public hearing. If TTB schedules a public hearing, it will publish a notification of the date, time, and place for the hearing in the **Federal Register**.

Confidentiality and Disclosure of Comments

All submitted comments and attachments are part of the rulemaking record and are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

TTB will post, and you may view, copies of this document, its supporting materials, and any comments TTB receives about this proposal within the related *Regulations.gov* docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings division by email using the web form available at *https://www.ttb.gov/contact-rrd,* or by telephone at 202–453–2265, if you have any questions regarding how to comment on this proposal or to request copies of this document, its supporting materials, or the comments received in response.

Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Order 12866

Since the regulatory text proposed in this notice of proposed rulemaking is identical (with one exception) to that contained in the companion temporary rule published elsewhere in this issue of the **Federal Register**, the analyses contained in the preamble of the temporary rule concerning the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12866 also apply to this proposed rule.

List of Subjects

27 CFR Part 26

Alcohol and alcoholic beverages, Beer, Excise taxes, Imports, Liquors, Notice requirements, Reporting and recordkeeping requirements, Wine.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Excise taxes, Imports, Liquors, Notice requirements, Reporting and recordkeeping requirements, Wine.

Proposed Amendments to the Regulations

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR chapter I, parts 26 and 27 as follows:

PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

■ 1. The authority citation for part 26 is revised to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111–5114, 5121, 5122–5124, 5131–5132, 5207, 5232, 5271, 5275, 5301, 5314, 5555, 6001, 6038E, 6065, 6109, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. Add § 26.208 to read as follows:

§ 26.208 Craft Beverage Modernization Act Tax benefits.

[The text of proposed § 26.208 is the same as the text of § 26.208 in the temporary rule published elsewhere in this issue of the **Federal Register**.]

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

■ 3. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5382, 5555, 6038E, 6065, 6109, 6302, 7805.

§ 27.221 [Amended]

■ 4. [The amendment of proposed § 27.221 is the same as the amendment of § 26.208 in the temporary rule published elsewhere in this issue of the **Federal Register**.]

§§ 27.223 through 27.249 [Reserved]

■ 5. [The proposed reservation of §§ 27.223 through 27.249 is the same as

the reservation of §§ 27.223 through 27.249 in the temporary rule published elsewhere in this issue of the **Federal Register**.]

■ 6. Add subpart P, consisting of §§ 27.250 through 27.268, to read as follows:

Subpart P—Craft Beverage Modernization Act Import Refund Claims

[The text of proposed subpart P, consisting of §§ 27.250 through 27.268, is the same as the text of subpart P, consisting of §§ 27.250 through 27.268, in the temporary rule published elsewhere in this issue of the **Federal Register**.]

■ 7. Section 27.262, as added in the temporary rule published elsewhere in this issue of the **Federal Register**, is further amended by revising paragraph (c)(1) to read as follows:

§ 27.262 Foreign producer's assignment of CBMA tax benefits.

* * * * *

(c) * * *

(1) *General.* A foreign producer may not assign CBMA tax benefits on distilled spirits, wine, or beer unless it produced the product. The foreign producer may assign quantities that are limited to the number of proof gallons, wine gallons, and beer barrels in paragraph (b)(4) of this section, and also cannot exceed the quantities of the foreign producer's distilled spirits, wine, and beer that are expected to be imported into the United States during the specified calendar year by the importer receiving the assignment.

* * * * *

Signed: September 14, 2022.

Mary G. Ryan,

Administrator.

Approved: September 14, 2022.

Thomas C. West, Jr.,

Deputy Assistant Secretary (Tax Policy).

[FR Doc. 2022–20413 Filed 9–22–22; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0355; FRL–10157–01–R4]

Air Plan Approval; Florida; Removal of Odor, Fluorides, and Total Reduced Sulfur Rules and Related Definitions From the Florida SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to correct the erroneous incorporation of several rules and related definitions into the Florida State Implementation Plan (SIP). The rules being proposed for removal from the SIP, which are identified by Florida in letters to EPA dated March 16, 2021, and July 2, 2021, regulate odor, fluoride, and total reduced sulfur (TRS) emissions. EPA is proposing to remove these rules and definitions from the Florida SIP because they are not related to implementation, maintenance, or enforcement of the national ambient air quality standards (NAAQS) or otherwise required to be included in the SIP.

DATES: Comments must be received on or before October 24, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2022–0355 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9009. Mr. Adams can also be reached via electronic mail at *adams.evan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A SIP is a federally enforceable collection of regulations and documents used by a state, territory, or local air district to implement, maintain, and enforce the NAAQS and to fulfill other requirements of the Clean Air Act (CAA or Act) that require SIP measures (*e.g.,* measures addressing regional haze under CAA section 169A). The NAAQS currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies.

EPA has incorporated several rules related to odor, fluorides, and TRS into the Florida SIP. In letters to EPA dated March 16, 2021, and July 2, 2021, Florida identifies some of those rules as inappropriate for inclusion in the SIP, provides the bases for its conclusions, and asks EPA to remove them pursuant to CAA section 110(k)(6).

Section 110(k)(6) provides EPA with the authority to make corrections to prior SIP actions that are subsequently found to be in error in the same manner as the prior action, and to do so without requiring any further submission from the state.[1] While section 110(k)(6) provides EPA with the authority to correct its own ''error,'' nowhere does this provision or any other provision in the CAA define what qualifies as ''error.'' Thus, EPA believes the term should be given its plain language, everyday meaning, which includes all unintentional, incorrect, or wrong actions and mistakes. Each provision proposed for removal from Florida's SIP is discussed below along with EPA's analysis.

II. EPA's Analysis

A. Rule 62–210.200, F.A.C.[2]*—Definitions*

In the July 2, 2021, letter from FDEP, the State requests that EPA remove the following terms and their definitions in Rule 62–210.200 from the Florida SIP: (66) Calciner, (109) Cross Recovery Furnace, (117) Digester System, (157) Green Liquor Sulfidity, (182) Lime Kiln, (207) Multiple Effect Evaporator System, (211) Neutral Sulfite Semichemical (NSSC) Pulping Operation, (212) New Design Direct-Fired Kraft Recovery

[1] Section 110(k)(6) states that ''Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.''

[2] F.A.C. stands for Florida Administrative Code.

Furnace, (213) New Design Direct-Fired Suspension-Burning Kraft Recovery Furnace, (214) New Design Kraft Recovery Furnace, (221) Objectionable Odor, (222) Odor, (223) Old Design Kraft Recovery Furnace, (241) Plant Section, (286) Smelt Dissolving Tank, (299) Straight Kraft Recovery Furnace, and (307) Tall Oil Plant.[3]

In the Florida SIP, these defined terms are only used in Rules 62–210.310(4), 62–296.320, 62–296.403, 62–296.404(4) through (6), and 62–297.440(2)(f), which are all being proposed for removal in this 110(k)(6) error correction notice. If EPA removes these rules from the Florida SIP, these terms will no longer be needed in the SIP because they are not used in any other SIP rules. EPA is proposing to remove these terms and their definitions from the Florida SIP for this reason and because they are not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP.

B. Rule 62–210.310, F.A.C.—Air General Permits

In the July 2, 2021, letter from FDEP, the State requests that EPA remove subparagraphs (4)(d)2.b, (4)(e)2.b, and (4)(f)2.c. of Rule 62–210.310, *Air General Permits* from the Florida SIP.[4] These subparagraphs serve only to require compliance with the objectionable odor prohibition of Rule 62–296.320(2), which, as discussed below, is also proposed for removal from the SIP. If EPA removes Rule 62–296.320(2) from the SIP, these provisions of Rule 62–210.310 will no longer have meaning. EPA is proposing to remove these subparagraphs from the Florida SIP for this reason and because they are not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP.

C. Rule 62–296.320, F.A.C.—General Pollutant Emission Limiting Standards

In the March 16, 2021, letter from FDEP, the State requests that EPA remove Rule 62–296.320(2), *Objectionable Odor Prohibited* from the Florida SIP.[5] This SIP-approved rule provides that ''No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to objectionable odor.'' EPA is proposing to remove this rule from the Florida SIP because it is not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP.

D. Rule 62–296.403, F.A.C.—Phosphate Processing

In the March 16, 2021, letter from FDEP, the State requests that EPA remove Rule 62–296.403, *Phosphate Processing,* in its entirety, from the Florida SIP.[6] This rule requires certain phosphate processing plants and plant sections to meet emissions limitations on the pounds of fluoride emitted per ton of phosphate material input and to comply with specified test methods. EPA is proposing to remove this rule from the Florida SIP because it is not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP.

E. Rule 62–296.404, F.A.C.—Kraft (Sulfate) Pulp Mills and Tall Oil Plants

In the March 16, 2021, letter from FDEP, the State requests that EPA remove the portions of Rule 62–296.404, *Kraft (Sulfate) Pulp Mills and Tall Oil Plants,* regarding TRS from the Florida SIP.[7] Specifically, EPA is proposing to remove Rule 62–296.404(1)(b) and Rules 62–296.404(4)(a)3, (4)(b)3, (4)(c)3, (4)(d), and (4)(e), which outline different testing methods and procedures for TRS processes, as well as Rules 62–296.404(5) and 62–296.404(6), which outline monitoring and reporting requirements for sources of TRS. EPA is proposing to remove these provisions from the Florida SIP because they are not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP.

F. Rule 62–297.440, F.A.C.—Supplementary Test Procedures

In the July 2, 2021, letter from FDEP, the State requests that EPA remove paragraph (2)(f) of Rule 62–297.440, *Supplementary Test Procedures* from the Florida SIP.[8] Rule 62–297.440(2)(f) provides that when determining whether a kraft recovery furnace is a straight kraft or cross recovery furnace the procedure in 40 CFR 60.285(d)(3) of Subpart BB shall be used. This provision is used only to determine which type of recovery furnace a specific unit is, as defined in Rule 62–210.200, in order to establish what TRS emission limit applies. If EPA removes all TRS provisions in 62–210.200, as described elsewhere in this notice, Rule 62–297.440(2)(f) will be unnecessary. EPA is proposing to remove this paragraph from the Florida SIP for this reason and because it is not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP.

EPA's prior approval into the Florida SIP of the rules and definitions identified by the State in its March 16, 2021, and July 2, 2021, letters to EPA, was in error because these rules and definitions are not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP. EPA is therefore proposing to remove them from the Florida SIP.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. EPA is proposing to remove certain provisions and defined terms from the following rules in the Florida SIP: 62–210.200, F.A.C.—*Definitions,* 62–210.310, F.A.C.—*Air General Permits,* 62–296.320, F.A.C.—*General Pollutant Emission Limiting Standards,* 62–296.403, F.A.C.—*Phosphate Processing,* 62–296.404, F.A.C.—*Kraft (Sulfate) Pulp Mills and Tall Oil Plants,* and 62–297.440, F.A.C.—*Supplementary Test Procedures.* From Rule 62–210.200, *Definitions,* EPA is proposing to remove the following defined terms and their definitions: (66) Calciner, (109) Cross Recovery Furnace, (117) Digester System, (157) Green Liquor Sulfidity, (182) Lime Kiln, (207) Multiple Effect Evaporator System, (211) Neutral Sulfite Semichemical (NSSC) Pulping Operation, (212) New Design Direct-Fired Kraft Recovery Furnace, (213) New Design Direct-Fired Suspension-Burning Kraft Recovery Furnace, (214) New Design Kraft Recovery Furnace, (221) Objectionable Odor, (222) Odor, (223) Old Design Kraft Recovery Furnace, (241) Plant Section, (286) Smelt Dissolving Tank, (299) Straight Kraft Recovery Furnace, and (307) Tall Oil Plant. From Rule 62–210.310, *Air General Permits,* EPA is proposing to remove the following provisions: 62–210.310(4)(d)2.b, (4)(e)2.b, and (4)(f)2.c. From Rule 62–296.320, *General Pollutant Emission Limiting Standards,* EPA is proposing to remove provision 62–296.320(2). From Rule 62–296.404, *Kraft (Sulfate) Pulp Mills and Tall Oil Plants,* EPA is proposing to remove the following provisions: 62–296.404(1)(b), (4)(a)3,

[3] EPA last updated the SIP-approved version of Rule 62–210.200 on September 16, 2020 (85 FR 57707).

[4] EPA last updated the SIP-approved version of Rule 62–210.310 on October 6, 2017 (82 FR 46682).

[5] EPA last updated the SIP-approved version of Rule 62–296.320 on June 16, 1999 (64 FR 32346).

[6] EPA last updated the SIP-approved version of Rule 62–296.403 on June 16, 1999 (64 FR 32346).

[7] EPA last updated the SIP-approved version of Rule 62–296.404 on June 16, 1999 (64 FR 32346).

[8] EPA last updated the SIP-approved version of Rule 62–297.440, *Supplementary Test Procedures,* on April 2, 2018 (83 FR 13875).

(4)(b)3, (4)(c)3, (4)(d), (4)(e), (5) and (6). From Rule 62–297.440, *Supplementary Test Procedures,* EPA is proposing to remove provision 62–297.440(2)(f). Finally, EPA is proposing to remove Rule 62–296.403, *Phosphate Processing,* in its entirety. The remaining portions of these rules will remain incorporated in the Florida SIP, as incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the SIP generally available at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to remove portions of Rules 62–210.200, F.A.C.—*Definitions,* 62–210.310, F.A.C.—*Air General Permits,* 62–296.320, F.A.C.—*General Pollutant Emission Limiting Standards,* 62–296.404, F.A.C.—*Kraft (Sulfate) Pulp Mills and Tall Oil Plants,* and 62–297.440, F.A.C.—*Supplementary Test Procedures* and all of Rule 62–296.403, F.A.C.—*Phosphate Processing* from the Florida SIP because EPA's incorporation of these rules and definitions into the SIP was in error as they are not related to implementation, maintenance, or enforcement of the NAAQS or otherwise required to be included in the SIP.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This proposed action merely proposes to correct errors in previous rulemakings approving SIP submissions and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: September 15, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–20423 Filed 9–22–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2022–0161; FRL–9410–05–OCSPP]

Receipt of Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities (August 2022)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before October 24, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2022–0161, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566–1400, email address: *BPPDFRNotices@epa.gov;* or Marietta Echeverria, Registration Division (RD) (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), summaries of the petitions that are the subject of this document, prepared by the petitioners, are included in dockets EPA has created for these rulemakings. The dockets for these petitions are available at *https://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

A. Notice of Filing—New Tolerance Exemptions for Inerts (Except PIPS)

1. *PP IN–11673.* EPA–HQ–OPP–2022–0737. RRStewart Consulting, LLC, on behalf of Aicello America Corporation, 182 Nassau Street, Princeton, NJ 08542, requests to establish an exemption from the requirement of a tolerance for residues of diglycerol (CAS No. 59113–36–9) as a plasticizer inert ingredient in pesticide formulations applied pre- and post-harvest to crops under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

2. *PP IN–11712.* EPA–HQ–OPP–2022–0711. Delta Analytical Corporation, on behalf of Borchers Americas, Inc., 811 Sharon Drive, Westlake, OH 44145, requests to establish an exemption from the requirement of a tolerance for α-D-Glucopyranoside, β-D-fructofuranosyl, polymer with methyloxirane and oxirane with a minimum number average molecular weight (in amu) of 9,820 (CAS Reg. No. 26301–10–0), when used as a pesticide inert ingredient (wetting agent) in pesticide formulations under 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

B. New Tolerance Exemptions for Inerts (Except PIPS)

PP IN–11712. EPA–HQ–OPP–2022–0711. Delta Analytical Corporation, on behalf of Borchers Americas, Inc., 811 Sharon Drive, Westlake, OH 44145, requests to establish an exemption from the requirement of a tolerance for α-D-Glucopyranoside, β-D-fructofuranosyl, polymer with methyloxirane and oxirane with a minimum number average molecular weight (in amu) of 9,820 (CAS Reg. No. 26301–10–0), when used as a pesticide inert ingredient (wetting agent) in pesticide formulations under 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

C. New Tolerance Exemptions for Non-Inerts (Except PIPS)

1. *PP 1F8959.* EPA–HQ–OPP–2022–0716. Crop Enhancement, 2186 Bering Drive, San Jose, California 95131, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the insecticide/miticide linseed oil in or on all raw agricultural commodities. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being proposed. *Contact:* BPPD.

2. *PP* 2F9018. EPA–HQ–OPP–2022–0743. Columbia River Carbonates, 300 North Pekin Road, Woodland, Washington 98674, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the biochemical active ingredient calcium carbonate in or on all agricultural food commodities. The analytical method Inductively Coupled Plasma-Optical Emission Spectrometer (ICP–OES) analysis of test item and reference standard is available to EPA for the detection and measurement of the pesticide residues. *Contact:* BPPD.

D. New Tolerances for Non-Inerts

1. *PP 2E9008.* EPA–HQ–OPP–2022–0576. BASF Corporation, Agricultural Products, P.O. Box 13528, 26 Davis Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide, imazapic in or on rice, grain at 0.05 parts per million (ppm) and in or on rice, bran at 0.2 ppm. The Liquid Chromatography-Mass spectrometry (LC–MS/MS) is used to measure and evaluate the chemical imazapic. *Contact:* RD.

2. *PP 2E9009.* EPA–HQ–OPP–2022–0577. BASF Corporation, Agricultural Products, P.O. Box 13528, 26 Davis Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide imazapyr in or on rice, grain at 0.06 ppm and in or on rice, bran at 0.2 ppm. The LC–MS/MS is used to

measure and evaluate the chemical imazapyr. *Contact:* RD.

3. *PP 2E9011.* EPA–HQ–OPP–2022–0672. American Spice Trade Association, 1101 17th Street NW, Suite 700, Washington, DC 20036, requests to establish a tolerance in 40 CFR part 180 for residues of the pesticide, cypermethrin, in or on raw agricultural spice commodities: Allspice; anise pepper; ashwagandha fruit; batavia-cassia, fruit; belleric myrobalan; caper buds; cardamom, black; cardamom, ethopian; cardamom, green; cardamom, nepal; cardamom-amomum; cassia, fruit; cassia, chinese, fruit; chinese hawthorn; chinese-pepper; cinnamon, fruit; cinnamon, saigon, fruit; coriander, fruit; cumin, black; dorrigo pepper, berry; dorrigo pepper, leaf; eucalyptus; gamboge; grains of selim; juniper, berry; miracle fruit; pepper, black; pepper, indian long; pepper, javanese long; pepper, pink; pepper, sichuan; pepper, white; pepperbush, berry; pepperbush, leaf; peppercorn, green; peppertree; peppertree, peruvian; saunders, red; sumac, fragrant; sumac, smooth, leaf; tamarind, seed; tasmanian, pepper, berry; tsaoko; vanilla, at 0.5 ppm; and angelica, seed; asafoetida; calamus-root; chaste tree, chinese, roots; coptis; coriander, seed; fingerroot; jalap; lovage, root; lovage, seed; yellow gentian, roots at 0.2 ppm. The gas chromatography with electron capture detection (GC/ECD) analytical method is used to measure and evaluate the chemical cypermethrin. *Contact:* RD.

E. New Tolerances for Non-Inerts

1. *PP 2E9006.* EPA–HQ–OPP–2022–0645. Interregional Research Project Number 4 (IR–4), IR–4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to establish a tolerance in 40 CFR 180.532 for residues of the fungicide, cyprodinil 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine in or on cranberry at 0.4 ppm. Analytical method AG–631B was used to measure and evaluate the chemical. *Contact:* RD.

2. *PP 2E9008.* EPA–HQ–OPP–2022–0576. BASF Corporation, Agricultural Products, P.O. Box 13528, 26 Davis Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide, imazapic in or on rice, grain at 0.05 ppm and in or on rice, bran at 0.2 ppm. The LC–MS/MS is used to measure and evaluate the chemical imazapic. *Contact:* RD.

3. *PP 2E9009.* EPA–HQ–OPP–2022–0577. BASF Corporation, Agricultural Products, P.O. Box 13528, 26 Davis Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide imazapyr in or on rice, grain at 0.06 ppm and in or on rice, bran at 0.2 ppm. The LC–MS/MS is used to measure and evaluate the chemical imazapyr. *Contact:* RD.

4. *PP 2E9011.* EPA–HQ–OPP–2022–0672. American Spice Trade Association, 1101 17th Street NW, Suite 700, Washington, DC 20036, requests to establish a tolerance in 40 CFR part 180 for residues of the pesticide, cypermethrin, in or on raw agricultural spice commodities: Allspice; anise pepper; ashwagandha fruit; batavia-cassia, fruit; belleric myrobalan; caper buds; cardamom, black; cardamom, ethopian; cardamom, green; cardamom, nepal; cardamom-amomum; cassia, fruit; cassia, chinese, fruit; chinese hawthorn; chinese-pepper; cinnamon, fruit; cinnamon, saigon, fruit; coriander, fruit; cumin, black; dorrigo pepper, berry; dorrigo pepper, leaf; eucalyptus; gamboge; grains of selim; juniper, berry; miracle fruit; pepper, black; pepper, indian long; pepper, javanese long; pepper, pink; pepper, sichuan; pepper, white; pepperbush, berry; pepperbush, leaf; peppercorn, green; peppertree; peppertree, peruvian; saunders, red; sumac, fragrant; sumac, smooth, leaf; tamarind, seed; tasmanian, pepper, berry; tsaoko; vanilla, at 0.5 ppm; and angelica, seed; asafoetida; calamus-root; chaste tree, chinese, roots; coptis; coriander, seed; fingerroot; jalap; lovage, root; lovage, seed; yellow gentian, roots at 0.2 ppm. The GC/ECD analytical method is used to measure and evaluate the chemical cypermethrin. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: September 16, 2022.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2022–20441 Filed 9–22–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

[Docket No. FMCSA–2022–0062]

RIN 2126–AC54

Unique Electronic Identification of Commercial Motor Vehicles

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM) and request for comments.

SUMMARY: FMCSA requests public comment on whether the agency should amend the Federal Motor Carrier Safety Regulations to require every commercial motor vehicle (CMV) operating in interstate commerce to be equipped with electronic identification (ID) technology capable of wirelessly communicating a unique ID number when queried by a Federal or State motor carrier safety enforcement personnel. In response to a petition for rulemaking from the Commercial Vehicle Safety Alliance (CVSA), FMCSA is considering such amendments to improve the efficiency and effectiveness of the roadside inspection program by more fully enabling enforcement agencies to focus their efforts at high-risk carriers and drivers.

DATES: Comments on this notification must be received on or before November 22, 2022.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2022–0062 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/docket/FMCSA-2022-0062/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. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–0676; *Luke.Loy@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION: FMCSA organizes this ANPRM 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 (FMCSA–2022–0062), 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-2022-0062/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-2062-0062/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
CMV Commercial Motor Vehicle
CVSA Commercial Vehicle Safety Alliance
DOT Department of Transportation
E.O. Executive Order
E-screening Electronic Screening
FMCSA Federal Motor Carrier Safety Administration
ID Identification
LPR License Plate Reader
MAP–21 Moving Ahead for Progress in the 21st Century Act
OCR Optical Character Recognition
OMB Office of Management and Budget
U.S.C. United States Code
VIN Vehicle Identification Number

III. Legal Basis for the Rulemaking

This proposed rule is based on the authority of 49 U.S.C. 31502(b) (originally enacted as part of the Motor Carrier Act of 1935). DOT is authorized by 49 U.S.C. 31502(b) to ''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.''

This proposed rule is also based on the authority granted by 49 U.S.C. 31136(a) (originally enacted as part of the Motor Carrier Safety Act of 1984 (1984 Act)). DOT has authority under 49 U.S.C. 31136(a) to regulate drivers, motor carriers, and CMVs. ''At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely . . . ; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators'' (49 U.S.C. 31136(a)). In 49 U.S.C. 31136(a)(5) (enacted as part of the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141, 126 Stat. 405, 818, July 6, 2012)), there is a fifth requirement to ensure that ''(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.''

In addition, 49 U.S.C. 31133(a) (enacted as part of the 1984 Act) includes more general authority to ''(8) prescribe recordkeeping . . . requirements; . . . and (10) perform other acts the Secretary considers appropriate.''

FMCSA is considering establishing requirements consistent with these statutory provisions that would enable safety officials to more efficiently and accurately identify a vehicle's motor carrier designation (or motor carrier on record) while in operation via wireless electronic means.

FMCSA is seeking to facilitate more accurate, focused enforcement to help the Agency meet the mandate of 49

U.S.C. 31136(a)(1) to ensure that CMVs are ''operated safely.'' A rule stemming from information gathered as a result of this ANPRM would not address the requirements of 49 U.S.C. 31136(a)(2) through (4), and because it would only have indirect and minimal application to drivers of CMVs, FMCSA believes that coercion of drivers to violate the rule would not occur (49 U.S.C. 31136(a)(5)).

IV. Executive Order (E.O.) 12866 (Regulatory Plannng 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

FMCSA's primary mission is to reduce crashes, injuries and fatalities involving large trucks and buses.[1] There are an estimated 12 million large trucks and buses (also known collectively as CMVs) registered to operate on America's roadways.[2] Enforcement of safety regulations for CMV operations is a major factor in providing safer roadways.

Given the consistent growth in the CMV industry, the number of vehicles to regulate far outpaces enforcement resources. As such, the use of technology for CMV identification is key to efficient and productive safety regulatory oversight. Ease of identification of CMVs allows enforcement personnel to make timely and informed decisions to support their mission critical operations.

Electronic ID Technologies

Electronic ID technologies provide a means of identifying CMVs either parked or in motion. Some technologies are also capable of two-way communication of information. The technologies in use for identifying CMVs operating in the United States and its Territories include license plate readers (LPRs), wireless mobile data services,[3] These technologies are used to assist businesses in tracking their inventory and operations. In addition, they also assist State and local agencies in roadside enforcement activities.

FMCSA currently does not require CMVs to be equipped with a system capable of transmitting a unique electronic ID (referred to as electronic ID in remainder of the document) for operation. However, FMCSA provides grant funding to States for technology projects that electronically identify a CMV, verify its size, weight, and credentials information, and review its carrier's past safety performance while the vehicle is in motion and then communicate safely to the driver to either pull in or bypass the roadside inspection station. Per Motor Carrier Safety Assistance Program (MCSAP) policy, vehicles that are: (1) properly credentialed; (2) operated by a motor carrier with a history of safe operations; and (3) within weight limits (if the site is instrumented for weight measurements) are allowed to bypass inspection facilities (although such vehicles are still subject to random inspection).[4] Electronic screening (e-screening) projects are designed to identify high-risk motor carriers/CMVs for roadside inspection, and to reduce operating costs for safe and legal motor carriers.

LPR systems combine the use of a specialized plate-reader camera with advanced optical character recognition (OCR) software that can identify and match license plates with existing registration data. The readers, which can be mounted on stationary poles and police cruisers, or are available as handheld devices, also log the time and date of each scan, the vehicle's GPS coordinates, and pictures of the license plate and/or vehicle. These types of systems are often used to identify traffic violations such as speeding and failure to stop at red lights. State CMV enforcement officers use LPR systems in conjunction with FMCSA's Safety and Fitness Electronic Records System to further identify the motor carrier responsible for safety.

Similarly, a USDOT number reader uses a high-resolution image of the side of a CMV and incorporates OCR software to obtain a machine-readable DOT number in real time at highway speeds. Although a USDOT number reader and a LPR serve a limited identification function as compared to the ID technology under consideration, those devices may require more resources to identify the motor carrier responsible for safety, and a LPR or USDOT reader may not always capture the license plate or USDOT number accurately. These issues may result in compliant carriers being stopped for roadside inspections and, conversely, non-compliant or high-risk carriers being excluded from roadside inspections. Unnecessary inspections on otherwise compliant carriers leave less time for enforcement personnel to identify and conduct inspections of higher-risk carriers, and they also diminish the value of the advance e-screening for compliant carriers. Lack of inspections on non-compliant higher risk carriers may result in adverse safety events.

A transponder is a device that acts as both a transmitter and responder and is used to wirelessly receive and transmit data to automatically identify and track the object (vehicle) to which the transponder is affixed. The transponder is then associated with an account holder for identification purposes. These devices are often utilized for toll collections.

Section 4126 of SAFETEA–LU (Pub. L. 109–59, 119 Stat. 1144, Aug. 10. 2005) required transponder use as part of Commercial Vehicle Information Systems and Networks (CVISN) program's *Core deployment*.[5] States installed dedicated short-range communication (DSRC) transponder systems because those were the prevalent technology at the time the CVISN program was authorized. In 2013, FMCSA issued internal guidance clarifying that transponders include both DSRC and cellular mobile radio

[1] See 49 U.S.C. 113.

[2] See *https://www.fmcsa.dot.gov/ourroads/about-campaign* (last accessed Mar. 8, 2022).

[3] Report to Congress. ''Safety and Efficiency Effects of Replacing Transponders with License Plate Readers to Screen Trucks at Inspection or Weigh Stations.'' Pursuant to House Report 115–750 accompanying House Bill 6072 and the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2019 (Pub. L. 116–6, 133 Stat. 13, Feb. 15, 2019). *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-06/Transponder%20Based%20Weigh%20Station%20Technology%20Report%20Enclosure%20FINAL%20June%202020.pdf* (last accessed June 15, 2022).

[4] *https://www.fmcsa.dot.gov/mission/grants/motor-carrier-safety-assistance-program-grant-comprehensive-policy* (last accessed Apr. 27, 2022).

[5] The term *Core deployment* was defined in paragraph (g)(3) to mean the deployment of systems in a State necessary to provide the State with certain capabilities, including ''(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.''

service (CMRS) technology, in recognition that CMRS transponders accomplish what is needed and may be more widely available and less costly. With the passage of the FAST Act, and its requirement that the Secretary ''establish an innovative technology deployment [(ITD)] grant program to make discretionary grants to eligible States for the innovative technology deployment of commercial motor vehicle information systems and networks,'' [6] FMCSA replaced the CVISN program with the ITD program. Unlike the SAFETEA–LU provision, the ITD provision in the FAST Act did not specifically require transponder use. Accordingly, FMCSA amended its 2016 MCSAP Grant Comprehensive Policy [7] for a broader, performance-based approach to accomplishing e-screening by-pass, while still maintaining consistency with many of the concepts and definitions (including the broader definition of *transponders*) from the CVISN program.

There are two major transponder-based by-pass providers that cover a large portion of continental United States and Canada. In addition, there are a few known State systems that provide this functionality as well as other products (*e.g.,* LPR and DOT number readers) that use the performance-based approach to provide the same service without using a traditional transponder.

Some vehicles are equipped with internet connectivity through wireless networks. Trucking companies offer wireless connections through cellular coverage areas by connecting existing wireless devices to a commercial mobile radio service. Using these services, operators of vehicles can send and receive electronic messages, order parts, and find loads.

FMCSA is undertaking an operational test of Level VIII Electronic Inspections to enhance its current process for monitoring and enforcing motor carrier and driver safety compliance. This test will provide insight into several of the issues being considered in this rulemaking. The electronic inspections being examined as part of the operational test effort would enable FMCSA to assess on-the-road safety compliance while a commercial motor vehicle (CMV) is still in motion, minimizing disruption to the motor carrier and therefore, supply chain, and doing so in a way that significantly reduces large trucks and bus emissions across the Nation. This effort would also enable FMCSA to collect more safety data about more carriers, with the goal of further reducing injuries and fatalities resulting from large truck and bus crashes.

CVSA Petition for Rulemaking

On July 26, 2010, CVSA submitted a petition for rulemaking requesting that FMCSA amend § 390.21 to require that every *commercial motor vehicle,* as defined in § 390.5, used in interstate commerce be equipped with an electronic device capable of communicating a unique ID number when queried by a law enforcement roadside system.[8] CVSA contended that implementation of a mandate requiring an electronic ID would ''facilitate efficiency and efficacy in the roadside inspection program by more fully enabling roadside enforcement agencies to target their efforts at high-risk operators, while at the same time, providing an incentive for safe and legal operations.'' In the petition, CVSA did not recommend specific technologies or identify specific systems or solutions; it did, however, provide an extensive list of minimum suggested functional requirements. CVSA also did not explain why motor carriers using vehicles equipped with electronic ID would be more incentivized to engage in safe and legal operations, but FMCSA assumes the incentive would be not being subject to unnecessary roadside inspections.

FMCSA denied the petition for rulemaking on May 24, 2013. While FMCSA agreed that the use of automated systems to positively identify CMVs via an electronic device placed on each CMV would be both feasible and supportable given available technologies, the Agency stated it would be inappropriate to grant the petition because the Agency lacked information necessary to estimate the costs and benefits of an electronic ID mandate. FMCSA noted that, before undertaking rulemaking, it would be prudent to:

(1) Fully explore the costs and safety benefits associated with a rule to require the use of electronic ID systems on all CMVs;

(2) Explore the currently available technological options; and

(3) Work cooperatively with the Federal Highway Administration, CVSA, and other interested parties to develop a technically sound, cost-effective, long-term approach to identifying CMVs at roadside.

On February 20, 2015, CVSA asked FMCSA to reconsider its denial issued May 24, 2013, and provided information to address the deficiencies the Agency had identified in the original petition response. After considering the additional information provided by CVSA, FMCSA granted the petition for rulemaking on November 2, 2015. The petition, 2013 denial letter, request for reconsideration, and 2015 grant letter are available in the docket for this rulemaking.

Electronic ID in the CMV Industry — Studies or Reports

The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2019, (Pub. L. 116–6, 133 Stat. 13, Feb. 15, 2019) [9] requested that DOT submit certain reports, including the report ''Safety and Efficiency Effects of Replacing Transponders with License Plate Readers to Screen Trucks at Inspection or Weigh Stations: Report to Congress.'' [10] In the report, FMCSA studied the impact of replacing existing e-screening transponder systems with LPRs at truck inspection or weigh stations.

The report found that LPR/USDOT number readers and transponders each improve the ability to electronically identify CMVs while the vehicle is in motion compared to the manual verification done at roadside inspection sites. Specifically, LPR/USDOT number readers identify the majority of the carrier population (at least 80 percent), including carriers with poor safety records and those enrolled in a

[6] See 49 U.S.C. 31101(l)(3) (added by sec. 5101(a) of the FAST Act (Pub. L. 114–94, 129 Stat. 1514, 1520–1521, Dec. 4, 2015)).

[7] *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Motor%20Carrier%20Safety%20Assistance%20Program%20Grant%20Comprehensive%20Policy%20v3.0%20Final%2006-10-2016.pdf* (last accessed June 15, 2022).

[8] The petition for rulemaking and request for reconsideration submitted by CVSA and the FMCSA denial letter can be found in the docket for this ANPRM at *https://www.regulations.gov/search?filter=FMCSA-2022-0062.*

[9] FMCSA notes that in the 2017 Consolidated Appropriations Act (Pub. L. 115–31, 131 Stat. 135, 742, May 5, 2017), FMCSA was prohibited from using funds made available by that Act or previous appropriations Acts to pay for costs associated with design, development, testing, or implementation of a wireless roadside inspection program until 180 days after the Secretary of Transportation certifies to the House and Senate Committees on Appropriations that ''such program does not conflict with existing non-Federal electronic screening systems, create capabilities already available, or require additional statutory authority to incorporate generated inspection data into safety determinations or databases, and has restrictions to specifically address privacy concerns of affected motor carriers and operators.'' As a result of this language, effective May 6, 2017, FMCSA discontinued its wireless roadside inspection pilot program, and announced it would not be collecting, monitoring, or reviewing data related to the wireless roadside inspection pilot program until Congress appropriates funds for it to do so.

[10] See *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-06/Transponder%20Based%20Weigh%20Station%20Technology%20Report%20Enclosure%20FINAL%20June%202020.pdf/* (last accessed June 14, 2022).

traditional transponder-based bypass system. Transponder and app-based (*i.e.,* wireless network-based) systems offer improved identification accuracy for a limited portion (13 percent) of the carrier population. Participation in these systems is voluntary for fleets, and participating fleets must maintain safety standards set by member States to stay enrolled. The systems use the same algorithm to inform inspection selection based on safety factors. However, the report found that regardless of the e-screening system in use at a weigh or inspection station, inspectors still often rely on visual cues and other factors (*e.g.,* site layout and capacity) to inform inspection decisions.

VI. Discussion of ANPRM and Questions

FMCSA is considering a rulemaking to require all CMVs operating in interstate commerce to have an electronic ID system. FMCSA is therefore soliciting further information regarding various aspects of electronic identification including the best possible technical and operational concepts along with associated costs, benefits, security, vulnerability, privacy and other relevant deployment and operational implications. The questions are organized by topic. As noted in the instructions for submitting comments in Section I.A., above, FMCSA requests that commenters provide a reason for each suggestion or recommendation.

1. General

a. Should a device capable of transmitting an electronic ID be permanently affixed or removable/transferrable to CMVs currently in operation? Would FMCSA's rule need to specify?

b. What data should be included as part of the electronic ID (*e.g.,* carrier name, carrier contact information, vehicle ID number, license plate number, USDOT number, and gross vehicle weight rating)?

- Should the information be limited to non-PII information? If not, why not?
- Should it include information specific to the driver (*e.g.,* hours of service, Commercial Driver's License compliance, and medical certification)?
- Should it also include information that may vary from trip to trip (*e.g.,* axle weight, pre-trip inspection date and time, and GPS coordinates and time when requested)?
- Depending on how you answer the above questions, should the electronic ID be transferrable in the event of a CMV sale?
- Depending on how you answer the above questions, who should be responsible for providing the data set (see question 1.b.) associated with the electronic ID for a CMV (*i.e.,* driver, carrier, third party)?

c. Depending on the scope of the data you believe is necessary in 1.b., how should the data be transmitted and received?

- Can existing technology (*e.g.,* ELDs) be used to collect and transmit the electronic ID data and receive a response from enforcement officials?
- How far in advance (time, distance) does a state need to gather the electronic ID information to positively ID a vehicle and message the vehicle whether further inspection is required?
- Should FMCSA propose a standard for the method of data transmission, and, if so, what should it be, or do you believe a voluntary standard can be developed?

d. Are there reports or studies not already referenced above available regarding the use of electronic devices to identify CMVs that FMCSA may find useful in finding a technically sound, cost-effective, long-term means to identify CMVs at roadside? If so, please provide the references in your responses.

e. Should the electronic ID be limited only to CMV power units (*e.g.,* motorcoaches, truck-tractors) or also include trailers?

f. How would an electronic ID apply to rented or leased vehicles that are operated by different carriers or parties throughout the course of the year?

g. How would or should an electronic ID be tied to States' CMV record keeping (*e.g.,* International Registration Plan registration, Performance and Registration Information Systems Management (PRISM))?

h. Are there privacy, health, or coercion concerns FMCSA should consider in a future proposal?

2. Functionality

a. Should the electronic ID framework be flexible so that functionality could be added later, as new safety and other vehicle technologies emerge?

b. What operational and/or technical processes should be in place for handling situations where messages or data concerning the electronic ID do not send or receive correctly?

c. How quickly can malfunctions in any electronic ID system be located and corrected?

d. What cybersecurity issues (*e.g.,* ''spoofing,'' and interference) should FMCSA consider in a future electronic ID proposal? Compare and contrast such concerns with the current electronic ID systems.

e. How could tampering be prevented if some or all data entry or transfer is performed manually?

3. Populations Affected

a. What is the population of trucks that already have a type of electronic ID technology (*e.g.,* PrePass, Drivewyze)?

b. What is the percentage of carriers that are not identified through current electronic screening capabilities? Please provide any supporting studies or reports.

4. Cost/Benefits

a. What are the current and potential future safety benefits of electronic IDs?

- Are there studies or reports that provide data to support the benefits of electronic IDs?
- Would implementing an electronic ID requirement lower crash rates, if so, how?

b. How would requiring an electronic ID impact the overall effectiveness of State CMV inspection programs?

c. How much time would compliant motor carriers save if an electronic ID were to be required?

d. What is the cost of adding electronic ID technology by type (*e.g.,* transponder, wireless, software, etc.)?

e. What is the cost of electronic ID equipment for States, carriers, and drivers?

f. What is the cost of maintaining/operating electronic ID equipment (*e.g.,* internet connection, inspection, repair, third party contracting fees, etc.)?

g. What is the additional administrative burden (time and costs not already associated with vehicle or carrier registration) for registering the electronic ID and updating the registration as necessary to ensure that it is associated with the current motor carrier responsible for safety?

5. Other

a. Is there any other information associated with electronic IDs that FMCSA should consider? Please describe.

Issued under the authority of delegation in 49 CFR 1.87.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–20643 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 87, No. 184
Friday, September 23, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 24, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Natural Resource Conservation Service

Title: Urban Agriculture and Innovation Production Grant Program.

OMB Control Number: 0578–0032.

Summary of Collection: The Agriculture Improvement Act of 2018 (2018 Farm Bill, Pub. L. 115–334) authorized the Farm Production and Conservation (FPAC) mission area and the Natural Resources Conservation Service (NRCS) to award competitive grants to local units of government, school districts, and tribal communities to support the development of urban agriculture and innovative production with the goal of improving access to local foods in areas where access to fresh, healthy food is limited or unavailable.

Need and Use of the Information: The information is utilized by NRCS to determine whether participants meet the eligibility requirements to be a recipient of grant funds. Lack of adequate information to make the determination could result in the improper administration and appropriation of Federal grant funds.

Description of Respondents: Farms.

Number of Respondents: 897.

Frequency of Responses: Reporting: Semi-annually.

Total Burden Hours: 6,773.

Natural Resource Conservation Service

Title: Composting and Food Waste Reduction Cooperative Agreements.

OMB Control Number: 0578–0033.

Summary of Collection: The Agriculture Improvement Act of 2018 (2018 Farm Bill; Pub. L. 115–334) authorized the Farm Production and Conservation (FPAC) mission area and the Natural Resources Conservation Service (NRCS) to carry out pilot projects under which local and municipal governments enter into cooperative agreements to develop and test strategies for planning and implementing municipal composting plans and food waste reduction plans.

Need and Use of the Information: NRCS is using the information to determine whether participants meet the eligibility requirements to be a recipient of grant funds. Lack of adequate information to make the determination could result in the improper administration and appropriation of Federal grant funds.

Description of Respondents: Farms.

Number of Respondents: 724.

Frequency of Responses: Reporting: Semi-annually.

Total Burden Hours: 5,353.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–20663 Filed 9–22–22; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2022–0013]

Request for Information and Stakeholder Listening Sessions on Farm Labor Stabilization and Protection Pilot Program

AGENCY: Farm Service Agency, Department of Agriculture (USDA).

ACTION: Notice of request for information.

SUMMARY: The Farm Service Agency (FSA) is hosting three listening sessions for public input about a recently announced planned farm labor stabilization and protection pilot grant program focused on improving the resiliency of our food and agricultural supply chain by addressing current labor shortages in agriculture, reducing irregular migration through increased use of legal pathways, and improving labor protections for farmworkers. FSA is interested in input from agricultural employer organizations, labor unions, farmworker advocates, farmworkers, and other relevant stakeholders. We invite stakeholders to participate in the listening session that best aligns with the perspective they are able and willing to offer to FSA. All listening sessions will be posted publicly and open to the public for registration.

DATES: *Registration:* To attend any of the listening sessions, you must register by September 28, 2022.

Listening sessions:

- Employer organizations: September 28, 2022, 11 a.m. EST;
- Labor unions: September 28, 2022, 2 p.m. EST; and
- Farmworker advocacy organizations: September 29, 2 p.m. EST.

Comments: We will consider comments that we receive by October 24, 2022.

ADDRESSES:

Registration: To register, go to *fsa.usda.gov/farmworkers.*

Comments: We invite you to send comments in response to this notice. In addition, if you provide oral comments at the listening session, please also provide your comments in writing. Send your comments through the method below:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and search for Docket ID FSA–2022–0013. Follow the instructions for submitting comments.

All written comments received will be publicly available on *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Cronin, phone (202) 692–4928 or email: *linda.cronin@usda.gov* or *FSAOutreach@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION: FSA is hosting three listening sessions for public input about a recently announced planned farm labor stabilization and protection pilot grant program focused on improving the resiliency of our food and agricultural supply chain by addressing current labor shortages in agriculture, reducing irregular migration through increased use of legal pathways, and improving labor protections for farmworkers. The farm labor stabilization and protection pilot grant program will use up to $65 million in American Rescue Plan Act funding to provide support for agricultural employers to hire seasonal workers from the northern Central American countries Guatemala, Honduras, and El Salvador and implement robust labor standards to promote a safe, healthy work environment for both U.S. workers and workers hired under the seasonal H–2A visa program. The H–2 category allows U.S. employers to bring noncitizens into the U.S. on temporary agricultural (H–2A) visas.

FSA is interested in input from agricultural employer organizations, labor unions, farmworker advocates, farmworkers, and other relevant stakeholders. From agricultural employer organizations, FSA is interested in understanding the challenges that employers face in securing a stable workforce; the incentives employers seek from the U.S. Department of Agriculture (USDA) in order to hire workers from northern Central American countries under the seasonal H–2A visa program; and the enhanced labor standards that employers are willing to accept in order to receive USDA support to stabilize the workforce. From labor unions and the broader farmworker advocacy community, FSA is interested in understanding the scope and set of robust worker protections, along with the best methods for verification of those protections, that will help improve labor standards and promote a safer, healthier work environment for both U.S. workers and workers hired from northern Central American countries under the seasonal H–2A visa program as well as the challenges workers currently face in accessing those protections and proposed solutions within statutory authority. Questions for each of the groups are provided below. We invite stakeholders to participate in the listening session that best aligns with the perspective they are able and willing to offer to FSA.

All listening sessions will be posted publicly and open to the public for registration.

The listening sessions will provide an opportunity for stakeholders and interested members of the public to share their thoughts about how FSA can best support agricultural employers in meeting their labor needs, while improving worker protections for both U.S. and H–2A workers.

Each listening session will begin with brief opening remarks from USDA officials. Individual speakers providing oral comments will be limited to 5 minutes each; however, if all speakers can be accommodated within the allotted time for the listening session, individual speaking times may be adjusted at the written request of the stakeholder (see the **FOR FURTHER INFORMATION CONTACT** section above). As noted above, we request that speakers providing oral comments also provide a written copy of their comments by October 24, 2022. All stakeholders and interested members of the public are welcome to register to provide oral and written comments; however, based on the listening session time or topic area constraints, FSA may not be able to allocate time for all registered attendees to provide oral comments during the listening sessions.

The purpose of the listening sessions is for FSA to hear from agricultural employer organizations, labor unions, farmworker advocacy organizations, farmworkers, and other interested members of the public. In your comments, provide your input about the farm labor stabilization and protection pilot grant program, changes, and anything else that may be helpful for FSA to be aware of or consider. We welcome public input that we can factor into decisions that need to be made to implement the provisions of the farm labor stabilization and protection pilot grant program.

Date	Time	Link
September 28, 2022.	11 a.m. EST.	*fsa.usda.gov/farmworkers.*
September 28, 2022.	2 p.m. EST.	*fsa.usda.gov/farmworkers.*
September 29, 2022.	2 p.m. EST.	*fsa.usda.gov/farmworkers.*

FSA is interested in all comments but requests input from key stakeholders on specific topics.

The following are questions for agricultural employers:

1. What barriers and challenges do agricultural employers currently face in accessing the H–2A visa program? What specific barriers and challenges do agricultural employers face in hiring workers from northern Central America?

2. Do agricultural employers have specific feedback on the housing components of the H–2A visa program? What challenges do you face related to housing?

3. What incentives are employers seeking from USDA to improve their ability to hire workers from northern Central American countries under the seasonal H–2A visa program?

4. What enhanced worker protections and labor standards are employers willing to accept in order to receive USDA support to stabilize the workforce? What mechanisms would be helpful in achieving these enhanced protections and standards?

5. What suggestions do you have to help ensure compliance for any additional standards required by recipients of grants as part of this farm labor stabilization and protection pilot grant program?

The following are questions for labor unions:

1. What barriers or challenges do farmworkers, specifically those in northern Central American countries, face in participating in the H–2A visa program?

2. What do you recommend to enhance farmworker protections, including during recruitment and employment? What methods do you recommend for enforcement and verification of those protections that will promote a safer, healthier work environment for both U.S. workers and workers hired from northern Central American countries under the seasonal H–2A visa program?

3. What suggestions do you have to help ensure compliance for any additional standards required by

recipients of grants as part of this farm labor stabilization and protection pilot grant program?

4. What recommendations do you have to increase farmworker awareness of their resources and worker rights both for workers within the United States and for H–2A visa holders in their country of origin?

The following are questions for farmworker advocacy organizations:

1. What barriers or challenges do farmworkers, specifically those in northern Central American countries, face in participating in the H–2A visa program?

2. What do you recommend to enhance farmworker protections, including during recruitment and employment? What methods do you recommend for enforcement and verification of those protections that will promote a safer, healthier work environment for both U.S. workers and workers hired from northern Central American countries under the seasonal H–2A visa program?

3. What suggestions do you have to help ensure compliance for any additional standards required by recipients of grants as part of this farm labor stabilization and protection pilot grant program?

4. What recommendations do you have to increase farmworker awareness of their resources and worker rights both for workers within the United States and for H–2A visa holders in their country of origin?

Instructions for Attending the Meeting

All persons wishing to attend the listening session must register at *fsa.usda.gov/farmworkers* by September 28, 2022. To register, information will be required including:

- Attendee contact information (email and phone number);
- Organization representative information (organization name and representative's title within the organization); and
- If you would like to speak, provide written comments.

All written comments received will be publicly available on *www.regulations.gov.*

If you require special accommodations, such as a sign language interpreter, use the contact information above. The listening session location is accessible to persons with disabilities.

Meeting Accommodation Request

Instructions for registering for this meeting can be obtained by contacting Linda Cronin by or before the deadline.

If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation, including language translation, to Linda Cronin as identified in the **FOR FURTHER INFORMATION CONTACT** section above. Determinations for reasonable accommodation will be made on a case-by-case basis.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and TTY) or (844) 433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

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William Marlow,

Acting Administrator, Farm Service Agency.

[FR Doc. 2022–20677 Filed 9–21–22; 8:45 am]

BILLING CODE 3411–E2–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2022–0024]

Notice of Request to Renew an Approved Information Collection: Interstate Shipment of Meat and Poultry Products

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to renew the approved information collection regarding the voluntary cooperative interstate shipment program. The approval for this information collection will expire on February 28, 2023. FSIS is making no changes to the information collection.

DATES: Submit comments on or before November 22, 2022.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or Courier-Delivered Submittals:* Deliver to 1400 Independence Avenue SW, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2022–0024. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202)205–0495 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program

Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Interstate Shipment of Meat and Poultry.

OMB Number: 0583–0143.

Type of Request: Request to renew an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS administers a voluntary cooperative inspection program under which State-inspected establishments in participating states with 25 or fewer employees are eligible to ship meat and poultry products in interstate commerce (21 U.S.C. 683 and U.S.C. 472) (9 CFR 321.3, 9 CFR part 332, 9 CFR 381.187, and 9 CFR part 381 subpart Z). In participating States, State-inspected establishments selected to take part in this program are required to comply with all Federal standards under the FMIA and the PPIA, as well as with all State standards. These establishments receive inspection services from State inspection personnel who have been trained in the enforcement of the FMIA and PPIA.

Meat and poultry products produced under the program that have been inspected and passed by designated State personnel bear an official Federal mark of inspection and are permitted to be distributed in interstate commerce. FSIS provides oversight and enforcement of the program.

States that are interested in participating in the cooperative interstate shipment program need to submit a request for an agreement to establish such a program through the appropriate FSIS District Office (9 CFR 332.4 and 9 CFR 381.514). In its request, a State must agree to comply with certain conditions to qualify for the interstate shipment program. The State must also: (1) Identify establishments in the State that the State recommends for initial selection into the program, if any, and (2) include documentation to demonstrate that the State is able to provide necessary inspection services to selected establishments in the State and conduct any related activities that would be required under a cooperative interstate shipment program. FSIS reviews the State's request to determine whether to approve the State to participate in the cooperative interstate shipment program.

If a State determines that an establishment qualifies to participate in the cooperative interstate shipment program, and the State is able, and willing, to provide the necessary inspection services at the establishment, the State is to submit its evaluation of the establishment to the FSIS District Office that covers the State (76 FR 24713).

FSIS, in coordination with the State, will then decide whether to select the establishments for the program. Establishments that qualify for this program must meet all requirements under the FMIA or PPIA, and implementing regulations, including FSIS requirements for recordkeeping (9 CFR 332.5 and 9 CFR 381.515). Most State-inspected establishments will already have met these recordkeeping requirements, but some establishments will need to make minor adjustments to their recordkeeping to meet FSIS requirements.

The FSIS selected establishment coordinator (SEC) is responsible for overseeing a State's cooperative inspection program. The SEC will visit each selected establishment in the State on a regular basis to verify that the establishment is operating in a manner that is consistent with the FMIA or PPIA and the implementing regulations (9 CFR 332.7 and 9 CFR 381.517).

The approval for this information collection will expire on February 28, 2023. FSIS is making no changes to the information collection. FSIS has made the following estimates based on an information collection assessment:

Estimate of Burden: FSIS estimates that it will take each new State an average of 40 hours to prepare and submit a request to establish a cooperative interstate shipment program.

FSIS estimates that it will take each State 24 hours to prepare and submit an evaluation for each new establishment entering the program. FSIS estimates that States will submit approximately 3 evaluations per year.

FSIS estimates that 15 establishments per year, out of the current 60 participating establishments, will spend 16 hours to modify their recordkeeping procedures to comply with Federal standards and 5 minutes per establishment to file these records. The State will need to provide these records during the initial verification visit when the FSIS SEC verifies the State nomination to select the establishment into the program. FSIS estimates 15 minutes per establishment to provide the records for the verification assessment.

Respondents: States and establishments.

Estimated No. of Respondents: 7 states and 60 establishments.

Estimated No. of Annual Responses per Respondent: FSIS estimates there will be one request per each new State to establish a cooperative interstate shipment program per year. There will be a one-time modification of records for each newly selected establishment whose recordkeeping does not comply with all Federal standards. The total number of estimated annual responses is 777.

Estimated Total Annual Burden on Respondents: 733 hours. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a)whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS

Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992.

Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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Paul Kiecker,

Administrator.

[FR Doc. 2022–20619 Filed 9–22–22; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 220916–0192]

RIN 0694–XC091

Request for Public Comments on the Potential Market Impact of the Proposed Fiscal Year 2024 Annual Materials Plan From the National Defense Stockpile Market Impact Committee

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The National Defense Stockpile Market Impact Committee, co-chaired by the Departments of Commerce and State, is seeking public comments on the potential market impact of proposed changes of the Fiscal Year (FY) 2024 Annual Materials Plan (AMP). Potential changes to the AMP are decided by the National Defense Stockpile Market Impact Committee who advise the Defense Logistics Agency in its role as the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions, conversions, and disposals involving the National Defense Stockpile.

DATES: To be considered, written comments must be received by October 24, 2022.

ADDRESSES: Submissions: You may submit comments, identified by docket number BIS–2022–0024 or RIN 0694–XC091, through the Federal eRulemaking Portal: *https://www.regulations.gov*. To submit comments via *https://www.regulations.gov,* enter the docket number BIS–2022–0024 on the home page and click ''Search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice and click the button entitled ''Comment.'' Further Instructions on how to submit a comment on *regulations.gov* can be found on the FAQ page. BIS also requests commenters review the instructions in the Additional Instructions for Comments section further in this notice. BIS, as the publisher of the notice, will be receiving the comments and disseminating them to the National Defense Stockpile Market Impact Committee. While BIS encourages the submissions of comments via *https://www.regulations.gov,* comments may also be submitted via email to the following: Katherine Reid, U.S. Department of Commerce, Bureau of Industry and Security, Office of Strategic Industries and Economic Security, email: *MIC@bis.doc.gov*. All comments submitted through email to Commerce must include the phrase ''Market Impact Committee Notice of Inquiry'' in the subject line and will be added to the docket on *regulations.gov*. Public comments are an important element of the Committee's market impact review process.

FOR FURTHER INFORMATION CONTACT: Marina Youssef, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: (202) 482–3504, (Attn: Marina Youssef), email: *MIC@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The federal government operates several different stockpiles, and these are managed by different federal agencies depending on the stockpile's purpose. For example, the Department of Health and Human Services (HHS) manages the Strategic National Stockpile, which contains medicines and medical equipment. HHS' stockpile can supplement medical countermeasures needed by states, tribal nations, territories and the largest metropolitan areas during public health emergencies. Another example, the Department of Energy operates the Strategic Petroleum Reserve for use when the international oil market is severely disrupted.

The Department of Defense (DOD) maintains a stockpile of critical and strategic materials known as the National Defense Stockpile (NDS). In a war or national emergency, this stockpile is meant to provide strategic and critical materials to support national defense and essential civilian requirements in a time of national emergency. The stockpile currently contains 57 materials, primarily

minerals, that are deemed strategic and critical to national security.[1]

Under the authority of the Strategic and Critical Materials Stock Piling Revision Act of 1979, as amended (the Stock Piling Act) (50 U.S.C. 98 *et seq.*), the Department of Defense's Defense Logistics Agency (DLA) is the National Defense Stockpile Manager. The NDS is a strategic stockpile, not an economic stockpile. It is not intended to influence prices in the market or insulate private industry from supply shocks. Rather, its purpose is to ensure the defense and essential civilian industrial base has consistent access to the materiel it needs—and the private industries making products have the raw materials they need—in war or national emergency.

Congress authorizes the sale of excess materials in the stockpile, and proceeds of the sales are transferred to the National Defense Stockpile Transaction Fund. The NDS does not receive annual appropriations in the defense budget—neither for new purchases of materials nor for operations expenses. Instead, the stockpile has a revolving fund in the US Treasury called the National Defense Stockpile Transaction Fund.[2] Whenever materials in the stockpile are sold, the proceeds of that sale are added to the fund. The DLA then uses that money to pay for the operational expenses of maintaining the stockpile and to purchase new materials. Information about stockpile transactions—what was bought, what was sold, at what value it was sold—is publicly available in annual and monthly reports published by DLA.[3]

Section 3314 of the National Defense Authorization Act for Fiscal Year 1993 (FY 1993 NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile. . . .'' The Committee must also balance market impact concerns with the statutory requirement to protect the U.S. Government against avoidable loss. *See* 50 U.S.C. 98e (b)(2).

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, the Treasury, and Homeland Security. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the types of materials stored in the Stockpile as the National Defense Stockpile Manager, the DLA must produce an Annual Materials Plan (AMP) proposing the maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, recovered, or sold by the DLA in a particular fiscal year. With this notice, Commerce, on behalf of DLA, lists the quantities and types of activity—potential disposals, potential acquisitions, potential conversions (upgrade, rotation, reprocessing, etc.) or potential recovery (from government sources)—associated with each material in its proposed FY 2024 AMP.

The quantities listed in Attachment 1 are not acquisition, disposal, upgrade, conversion, recovery, reprocessing, or sales target quantities, but rather a statement of the proposed maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, recovered, or sold in a particular fiscal year by the DLA. The quantity of each material that will actually be acquired or offered for sale will depend on the market for the material at the time of the acquisition or offering, as well as on the quantity of each material approved by Congress for acquisition, disposal, conversion, or recovery.

Additional Instructions for Comments

The Committee is interested in any supporting data and documentation on the potential market impact of the quantities associated with the proposed FY 2024 AMP.

While *regulations.gov* allows users to provide comments by filling in a ''Type Comment'' field or by attaching a document using an ''Upload File'' field, BIS prefers comments be provided in an attached document—preferably in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application format other than Microsoft Word or Adobe Acrobat, please indicate the name of the application in the ''Type Comment'' field. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter within the comments. Please include any exhibits, annexes, or other attachments in the same file, so the submission consists of one instead of multiple files. All filers should name their files using the name of the person or entity submitting the comments.

Submitted materials properly marked as business confidential information with a valid statutory basis for confidentiality and which is accepted as such by BIS will not be disclosed publicly. Commenters submitting business confidential information should clearly identify the business confidential portion at the time of submission, include a statement justifying nondisclosure and referring to the specific legal authority claimed with the submission, and provide a non-confidential version of the submission which will be placed in the public file on *https://www.regulations.gov*. For comments containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The file name of the non-confidential version should begin with the character ''P''. The non-confidential version must be clearly marked ''PUBLIC'' on the top of the first page. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) website at *https://efoia.bis.doc.gov/*. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this website, please call BIS's Office of Administration at (202) 482–1900 for assistance.

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

Attachment 1

[1] Defense Logistics Agency, ''Strategic Materials: Office,'' U.S. Department of Defense, *https://www.dla.mil/HQ/Acquisition/StrategicMaterials/About/*.

[2] Strategic and Critical Materials Stock Piling Revision Act of 1979, Public Law 96–41, p. 5.

[3] Strategic Materials Reports (dla.mil).

PROPOSED FISCAL YEAR 2024 ANNUAL MATERIALS PLAN

Material	Unit	Quantity	Footnote
Potential Disposals			
Beryllium Metal	ST	8	
Carbon Fibers	Lbs	98,000	
Chromium, Ferro	ST	24,000	
Chromium, Metal	ST	500	
Germanium	kg	5,000	
Manganese, Ferro	ST	50,000	
Manganese, Metallurgical Grade	SDT	322,238	(1)
Aerospace Alloys	Lbs	1,500,000	
Platinum	Tr Oz	8,380	(1)
PGM—Iridium	Tr Oz	489	(1)
Quartz Crystals	Lbs	15,759	(1)
Tantalum	Lbs	190	(1)
Tin	MT	640	
Titanium Based Alloys	Lbs	1,000,000	
Tungsten Ores and Concentrates	Lbs W	2,000,000	(1)
Zinc	ST	2,500	
Potential Acquisitions			
Aluminum (High Purity)	MT	17,000	
Aluminum Alloys	MT	1,500	
Antimony	MT	1,100	
Cadmium Zinc Telluride	EA	1,000	
Cerium	MT	550	
Electrolytic Manganese Metal	MT	5,000	
Energetics	Lbs	20,000,000	
Ferroniobium	Lbs Nb	300,000	
Grain Oriented Electric	MT	3,200	
Iso-Molded Graphite	MT	1,300	
Lanthanum	MT	1,300	
Magnesium	MT	3,500	
Neodymium-Praseodymium Oxide	MT	300	
NdFeB Magnet Block	KG	286,000	
Rayon	MT	600	
Samarium-Cobalt Alloy	MT	200	
Tantalum	Lbs Ta	53,000	
Tire Cord Steel	MT	2,370,000	
Titanium	ST	15,000	
Tungsten	Lbs W	587,000	
Zirconium	MT	230	
Potential Conversions (Upgrade, rotation, reprocessing, etc.)			
Aerospace Alloys	Lbs	50,000	
Antimony	Lbs	198,000	
Beryllium Metal	ST	8	
CZT (Cadmium Zinc Tellurium substrates)	EA	1,000	
Carbon Fibers	Lbs	5,000	
Europium	MT	35	
Germanium	kg	5,000	
Iridium Catalyst	Lbs	200	
Lithium Ion Materials	MT	25	
Rare Earths Elements	MT	12	
Silicon Carbide Fibers	Lbs	875	
Triamino Trinitrobenzene (TATB)	Lbs	48,000	
Potential Recovery From Government Sources			
Aerospace Alloys	Lbs	1,500,000	
Battery Materials	MT	50	
Boron Carbide	MT	300	
Cobalt	Lbs	50,000	
E-Waste	MT	100	(2)
Germanium	kg	5,000	
Iridium Catalyst	Lbs	200	
Magnesium Metal	MT	25	
Rare Earths	Lbs	20,000	
Tantalum	MT	10	
Yttrium Aluminum Garnet Rods	kg	250	

Footnote Key:

[1] Actual quantity will be limited to remaining excess inventory.
[2] Strategic and Critical Materials collected from E-Waste (Strategic Materials collected from electronics waste).

[FR Doc. 2022–20687 Filed 9–22–22; 8:45 am]
BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–826]

White Grape Juice Concentrate From Argentina: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With the Final Antidumping Duty Determination; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published a notice in the **Federal Register** on September 6, 2022, in which Commerce announced the preliminary affirmative determination in the countervailing duty (CVD) investigation of white grape juice concentrate (WGJC) from Argentina. In that notice, Commerce did not state that it is aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of WGJC from Argentina. We are correcting this error with this notice, as described below.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of September 6, 2022, in FR Doc 2022–19190, on page 54455, after the paragraph, ''Methodology,'' add the following paragraph regarding alignment:

''**Alignment**

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of WGJC from Argentina, based on a request made by the petitioner.[1] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than January 10, 2023, unless postponed.''

Background

On September 6, 2022, Commerce published in the **Federal Register** the *Preliminary Determination* in the CVD investigation on WGJC from Argentina.[2] In that notice, Commerce did not state, as it had in the accompanying Preliminary Decision Memorandum, that it is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of WGJC from Argentina. Commerce is hereby correcting the *Preliminary Determination*.

Notification to Interested Parties

This notice is issued and published in accordance with sections 703(f) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.205(c).

Dated: September 16, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–20664 Filed 9–22–22; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–831, A–821–835]

Urea Ammonium Nitrate Solutions From the Russian Federation: Termination of Antidumping Duty Changed Circumstances Review; Emulsion Styrene-Butadiene Rubber From the Russia Federation: Notification of Intent To Investigate Whether the Russian Federation is a Market Economy

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

SUMMARY: The U.S. Department of Commerce (Commerce) is terminating the changed circumstances review (CCR) under the antidumping duty (AD) investigation of urea ammonium nitrate solutions (UAN) from the Russian Federation (Russia), in which Commerce was examining whether Russia has remained a market economy (ME) country for purposes of the AD law. The examination of whether Russia has remained an ME country for purposes of the AD law is now being continued within the context of the emulsion styrene-butadiene rubber (ESBR) investigation from Russia.

DATES: Applicable September 23, 2022.

FOR FURTHER INFORMATION CONTACT: Leah Wils-Owens, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4203, email: *Leah.Wils-Owens@trade.gov*.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2021, Commerce received petitions for the imposition of AD and countervailing duties (CVD) on UAN imported into the United States from Russia and the Republic of Trinidad and Tobago. In the petitions,[1] the petitioner stated that information that was reasonably available to it indicated that Russia does not operate on market principles. As such, the petitioner argued that Commerce should initiate an investigation into whether, and should determine that, Russia is a non-market economy (NME) country. After finding that the petitioner's allegation met the requirements of section 732 of the Tariff Act of 1930, as amended (the Act), on July 30, 2021, Commerce initiated an AD investigation of UAN from Russia, as well as an examination of Russia's status as an ME country.[2]

On October 29, 2021, based on the information on the record, Commerce determined that Russia remained an ME country for purposes of AD law.[3] However, in its determination, Commerce noted that,

[1] *See* Petitioner's Letter, ''Petitioner's Request for Alignment of the CVD Determination with the AD Determination,'' dated June 27, 2022.

[2] *See White Grape Juice Concentrate from Argentina: Preliminary Affirmative Countervailing Duty Determination,* 87 FR 54455 (September 6, 2022) (*Preliminary Determination*).

[1] The petitioner in the UAN proceedings was CF Industries Nitrogen, LLC and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma) LLC (collectively, the petitioner).

[2] *See Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation: Opportunity to Comment on the Russian Federation's Status as a Market Economy Country Under the Antidumping Duty Laws,* 86 FR 41008 (July 30, 2021).

[3] *See* Memorandum, ''Review of Russia's Status as a Market Economy Country,'' dated October 29, 2021.

when Commerce determined Russia to be a market economy country in 2002, {it} expected market-oriented reforms to continue to progress significantly. Since they have not progressed as significantly as expected and in some cases have backtracked, Commerce will monitor the progress of reforms in the Russian economy for the near future for purposes of the antidumping duty law.[4]

In its March 26, 2022, case brief in the AD investigation of UAN from Russia, the petitioner argued that the final phase of the AD investigation of UAN from Russia was an appropriate time in the ''near future'' for Commerce to revisit its determination regarding Russia's ME status and examine whether its October 2021 findings regarding that status remain valid, including its ''findings concerning ruble convertibility, the environment for foreign investment, the {Government of Russia's} control over Russia's economy, rule of law, and freedom of information.'' [5] Given Commerce's observations in its October 29, 2021 determination, the request in the petitioner's case brief, and the additional information gathered concerning changes to the economic conditions in Russia, Commerce determined to revisit Russia's status as an ME country in the context of a CCR initiated on May 6, 2022.[6] Commerce detailed recent developments in Russia in an accompanying decision memorandum, finding that good cause exists within the meaning of 19 CFR 351.216(c) to initiate a CCR to review whether Russia remains an ME country for purposes of administration of the AD law.[7] Therefore, Commerce initiated a CCR to determine whether Russia remains an ME country for purposes of the AD law, pursuant to sections 751(b) and 771(18)(C)(ii) of the Act, and 19 CFR 351.216(c).

Termination of the CCR

On July 25, 2022, EuroChem Switzerland (EuroChem), a global fertilizer supplier and a mandatory respondent in the UAN from Russia AD investigation, requested that the CCR be terminated.[8] EuroChem cited the negative injury determination as to UAN by the U.S. International Trade Commission (ITC) as grounds for terminating the CCR.[9] EuroChem also argued that the comments it had provided in response to the *CCR Initiation,* along with comments from the Government of Russia, had effectively rebutted Commerce's claim that good cause existed to examine Russia's ME status.[10]

Commerce has concluded that it is necessary to terminate the CCR, because as a result of the ITC's finding of no material injury or threat of material injury, there is no AD order of UAN from Russia to review through a CCR.[11]

ESBR From Russia—Investigation of Russia's ME Status

As Commerce is now terminating the CCR of UAN from Russia, Commerce is now examining Russia's ME status within the context of the AD investigation of ESBR from Russia, pursuant to section 771(18)(C)(ii) of the Act. The final determination of the investigation of ESBR from Russia is scheduled to be issued not later than November 9, 2022. While Commerce intends to complete the review of Russia's ME status by the final determination, Commerce does not intend to reconsider the calculation methodology used for determining the AD margins in the ESBR from Russia final determination, as there will not be sufficient time to do so.

Opportunity for Public Comment and Submission of Factual Information

Certain parties submitted public comments and factual information for consideration in the CCR pursuant to the Federal eRulemaking Portal: *www.Regulations.gov.* These include comments and, where applicable, rebuttal comments from:

(a) EuroChem Switzerland;
(b) The Ministry of Economic Development of the Russian Federation;
(c) CF Industries Nitrogen, LLC and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma) LLC; and
(d) Wiley Rein LLP.

Commerce is now requesting these parties resubmit their comments to the ESBR from Russia AD investigation (A–821–835) segment on ACCESS. The parties listed above must resubmit their comments to the ACCESS ESBR from Russia AD investigation segment no later than 5:00 p.m. Eastern Time, September 28, 2022. The parties listed above resubmitting their comments must follow the additional instructions provided by Commerce in a memorandum issued concurrently with this notice and placed on the records of both the ESBR investigation and the UAN CCR.[12]

Commerce is also providing interested parties that have not already submitted comments in the CCR with an opportunity to submit public comments and factual information regarding developments in the Russian economy since October 2021 with respect to the six factors enumerated in section 771(18)(B) of the Act. If parties have already submitted comments on Russia's status as an ME country in the context of the CCR discussed above, new comments from those parties will not be accepted.

The six factors enumerated in section 771(18)(B) of the Act are:

(i) the extent to which the currency of the foreign country is convertible into the currency of other countries;
(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management;
(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country;
(iv) the extent of government ownership or control of the means of production;
(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises; and
(vi) such other factors as the administering authority considers appropriate.

Interested parties may submit comments and factual information regarding Russia's current status as an ME country no later than 21 days after the date of publication of this notice in the **Federal Register**. Rebuttal comments, limited to comments on issues raised in parties' affirmative comments, may be filed no later than 10 days after the date for filing affirmative comments. Comments, factual information, and rebuttal comments must contain all public information.

Parties may request a hearing in their comments. After reviewing all comments, and factual information, Commerce will determine whether to hold a public hearing in the AD

[4] *Id.* at 6.

[5] *See* Petitioner's Letter, ''Urea Ammonium Nitrate Solutions from the Russian Federation (A–821–831): Petitioner's Case Brief,'' dated March 15, 2022, at 3.

[6] *See Urea Ammonium Nitrate Solutions from the Russian Federation: Initiation of Antidumping Duty Changed Circumstances Review,* 87 FR 29286 (May 13, 2022) (*CCR Initiation*), and accompanying Decision Memorandum (placed on the record of the ESBR investigation on September 14, 2022).

[7] *Id.*

[8] *See* EuroChem's Letter, ''Urea Ammonium Nitrate Solutions (UAN) from the Russian Federation,'' dated July 25, 2022 (placed on the record of the ESBR investigation on September 14, 2022).

[9] *Id.* at 1–2; *see also Urea Ammonium Nitrate Solutions from Russia and Trinidad and Tobago,* 87 FR 48689 (August 10, 2022) (finding that an industry in the United States is not materially injured or threatened with material injury by reason of imports of UAN from Russia).

[10] *Id.* at 2.

[11] *See* section 731 of the Act; *see also* section 751(b)(1) of the Act.

[12] *See* Memorandum, ''Resubmitting Information and Comments Concerning Russia's Status as a Market Economy Country from the Urea Ammonium Nitrate Solutions Changed Circumstances Review,'' dated concurrently with this notice.

investigation of ESBR from Russia, limited to Russia's current status as an ME country.[13] If Commerce determines that a public hearing on this issue is warranted, it will announce a time and forum for the hearing.

Notification to Interested Parties

This notice is issued and published in accordance with section 771(18)(C)(ii) of the Act.

Dated: September 19, 2022

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–20665 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–051, C–570–052]

Certain Hardwood Plywood Products From the People's Republic of China: Preliminary Scope Determination and Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders; Extension of Deadline To Certify Certain Entries

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

DATES: Applicable September 12, 2022.

SUMMARY: On July 29, 2022, the U.S. Department of Commerce (Commerce) published a notice of a preliminary scope determination and affirmative preliminary circumvention determination in the **Federal Register** concerning the antidumping duty (AD) and countervailing duty (CVD) orders on certain hardwood plywood products (hardwood plywood) from the People's Republic of China (China). This notice informs parties that Commerce has extended the deadline for certain exporters and importers to certify entries of hardwood plywood exported from the Socialist Republic of Vietnam (Vietnam) that were entered, or withdrawn from warehouse, for consumption on or after June 17, 2020, and until August 28, 2022.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2593.

SUPPLEMENTARY INFORMATION: In the *Preliminary Determination,* Commerce established a certification program and a deadline for certain exporters and importers to certify that entries of hardwood plywood exported from Vietnam that entered, or were withdrawn from warehouse, for consumption on or after June 17, 2020, and until August 28, 2022, are not subject to the AD/CVD orders on hardwood plywood from China.[1] The deadline for exporters and importers to complete these certifications was September 12, 2022.[2]

Extension

On September 12, 2022, Commerce issued a memorandum via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (*i.e.,* ACCESS) notifying interested parties that the deadline for the certifications to be complete was extended by 80 days.[3] Also on September 12, 2022, Commerce transmitted instructions to U.S. Customs and Border Protection (CBP) notifying CBP of the extended deadline.[4] The deadline for exporters and importers to complete the certification requirements established in the *Preliminary Determination* is now December 1, 2022. We note that the 36 companies that Commerce precluded from participating in this certification program in the *Preliminary Determination* are still precluded from participating in the certification program we established for applicable exports of hardwood plywood from Vietnam.[5]

Notification to Interested Parties

This notice is issued and published in accordance with sections 781(b) of the Tariff Act of 1930, as amended and 19 CFR 351.225(f) and (h).[6]

Dated: September 19, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–20666 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC392]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Salmon Technical Team (STT) and Scientific and Statistical Committee's (SSC) Salmon Subcommittee will hold an online meeting.

DATES: The online meeting will be held Wednesday, October 12 and Thursday, October 13, 2022. The daily meeting time will be 8:30 a.m. until 3 p.m., and all times are Pacific Daylight Time. If necessary, meetings may continue past the noticed end time on each day in order to complete the business at hand.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You

[13] Other issues in the investigation will be subject to a briefing schedule to be established after the issuance of verification reports. Likewise, a hearing on other issues in the investigation, if one is scheduled, will be separately scheduled.

[1] *See Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Scope Determination and Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders,* 87 FR 45753, 45756–58 (July 29, 2022) (*Preliminary Determination*); *see also Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 83 FR 504 (January 4, 2018); and *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order,* 83 FR 513 (January 4, 2018).

[2] *See Preliminary Determination,* 87 FR 45756.

[3] *See* Memorandum, ''Extension of Deadline to Certify Certain Entries of Hardwood Plywood and Response to Request to Modify Cash Deposit Instructions,'' dated September 12, 2022.

[4] *See* CBP Message 2255409, ''Notice of amended deadline for certifications in the Vietnam-wide circumvention inquiry of the antidumping and countervailing duty orders on certain hardwood plywood products and veneered panels from the People's Republic of China (A–570–051, C–570–052 and A–552–006, C–552–007),'' dated September 12, 2022; *see also* CBP Message 2255410, ''Notice of amended deadline for certifications in the scope inquiry of the antidumping and countervailing duty orders on certain hardwood plywood products and veneered panels from the People's Republic of China (A–570–051 and C–570–052),'' dated September 12, 2022.

[5] *See Preliminary Determination* at Appendix V.

[6] Commerce significantly revised its scope regulations on September 20, 2021, with an effective date of November 4, 2021. *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021). The amendments to 19 CFR 351.225 apply to scope inquiries for which a scope ruling application is filed, as well as any scope inquiry self-initiated by Commerce, on or after November 4, 2021. The newly promulgated 19 CFR 351.226 applies to circumvention inquiries for which a circumvention request is filed, as well as any circumvention inquiry self-initiated by Commerce, on or after November 4, 2021. We note that these scope and circumvention inquiries were initiated prior to the effective date of the new regulations, and, thus, any reference to the regulations is to the prior version of the regulations.

may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Robin Ehlke, Staff Officer, Pacific Council; telephone: (503) 820–2410.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to conduct a salmon methodology review to discuss and review proposed changes to analytical methods used in salmon management. At its September 2022 meeting, the Pacific Council adopted the following priority items for the 2022 Salmon Methodology Review.

1. Technical review of the updates associated with 'Round 7.1.1' of the Fishery Regulation Assessment Model (FRAM) base period as they relate to modeled abundances of Chinook salmon stocks used in determining the southern resident killer whale (SRKW) Chinook salmon abundance threshold.

2. Technical review of the updates to Chinook salmon ocean distribution models that derive from two publications (Shelton *et al.* 2019, 2021) and are used to apportion the modeled abundance of Chinook salmon stocks among ocean regions.

3. Discussion of whether the Sacramento Index forecast should be expressed as a mean or median.

4. Review of the basis behind the Sacramento River Fall Chinook conservation objective.

5. FRAM technical detail documentation.

If time allows additional topics may be discussed, including but not limited to future Pacific Council agenda items and salmon related topics of interest to the STT and SSC Salmon Subcommittee.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 20, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20659 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Statement of Financial Interests, Regional Fishery Management Councils

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 22, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0192 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Morgan Corey, Fishery Management Specialist, Office of Sustainable Fisheries, 1315 East-West Highway, 13th Floor, Silver Spring, MD 20910, (301) 427–8535, and *morgan.corey@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision and extension of a currently approved information collection. The Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the establishment of eight Regional Fishery Management Councils to manage fisheries within regional jurisdictions. Section 302(j) of the Magnuson-Stevens Act requires that affected individuals, including Council members appointed by the Secretary of Commerce, Scientific and Statistical Committee (SSC) members appointed by a Council, and individuals nominated by the State Governor, Territorial Governor or Tribal Government for possible appointment as a Council member (50 CFR 600.235), must disclose their financial interest in any Council fishery. Financial interests include harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction. Information on financial interests must be disclosed on NOAA Form 88–195, Statement of Financial Interests, under OMB collection 0648–0192. The information collected is used to assess potential conflicts of interest and to make determinations about when recusals from Council voting decisions are necessary to avoid such conflicts. NOAA Fisheries and Council offices are required to maintain current Statement of Financial Interests forms on file that are publically available for transparency. The Statement of Financial Interests form is being revised at this time for consistency with the final rule 0648–BH73 to clarify guidance on council members' financial disclosures and voting recusals (50 CFR 600.235; as amended at 85 FR 56177, Sept. 11, 2020).

II. Method of Collection

Information will be collected electronically. Paper forms will be accepted if needed.

III. Data

OMB Control Number: 0648–0192.

Form Number(s): NOAA Form 88–195.

Type of Review: Regular (revision and extension of a current information collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 330.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 248 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: MSA Section 302(j) and 50 CFR 600.235.

IV. Request for Comments

We are soliciting public comments to permit NOAA to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of NOAA, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this Information Collection Request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–20624 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NMFS Implementation of International Trade Data System

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 22, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0732 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Rachael Confair, Office of International Affairs, Trade, and Commerce, Supervisory International Trade Specialist, 1315 East West Highway, SSMC3 Room 5307, Silver Spring, MD 20910, 301–427–8361, *rachael.confair@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) Office of International Affairs, Trade, and Commerce requests a regular submission for the extension of a current information collection. The Security and Accountability for Every Port Act of 2006 (SAFE Port Act, Pub. L. 109–347) requires all Federal agencies with a role in import admissibility decisions to collect information electronically through the International Trade Data System (ITDS). The Department of the Treasury has the U.S. Government lead on ITDS development and Federal agency integration. U.S. Customs and Border Protection (CBP) developed the Automated Commercial Environment (ACE) as an internet-based system for the collection and dissemination of information for ITDS. The Office of Management and Budget (OMB), through its e-government initiative, oversees Federal agency participation in ITDS, with a focus on reducing duplicate reporting across agencies and migrating paper-based reporting systems to electronic information collection. Numerous Federal agencies are involved in the regulation of international trade and many of these agencies participate in the decision-making process related to import, export, and transportation. Agencies also use trade data to monitor and report trade activity. NMFS is a partner government agency in the ITDS project as it monitors the trade of certain fishery products. Electronic collection of seafood trade data through a single portal has resulted in an overall reduction of the public reporting burden and the agency's data collection costs, has improved the timeliness and accuracy of admissibility decisions, and has increased the effectiveness of applicable trade restrictive measures.

NMFS is responsible for implementation of trade measures and monitoring programs for fishery products subject to the documentation requirements of Regional Fishery Management Organizations (RFMO) and/or domestic laws. RFMOs are international fisheries organizations, established by treaties, to promote international cooperation to achieve effective and responsible marine stewardship and ensure sustainable fisheries management. The United States is a signatory to many RFMO treaties, and Congress has passed legislation to carry out U.S. obligations under those treaties, including trade measures to support conservation. Trade measures and monitoring programs enable the United States to exclude products that do not meet the RFMO criteria for admissibility to U.S. markets.

Pursuant to domestic statutory authorities and/or multilateral agreements, NMFS has implemented a number of monitoring programs to collect information from the seafood industry regarding the origin of certain fishery products. The purpose of these programs is to determine the admissibility of the products in accordance with the specific criteria of the trade measure or documentation requirements in effect. The three NMFS trade monitoring programs originally included in the OMB information collection approved under Control Number 0648–0732 are the Highly Migratory Species International Trade Program (HMS ITP) which regulates trade in specified commodities of tuna, swordfish, billfish, and shark fins; the Antarctic Marine Living Resources (AMLR) trade program which regulates trade in Antarctic and Patagonian toothfish and other fishery products caught in the area where the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) applies; and the Tuna Tracking and Verification Program (TTVP), which regulates trade in frozen and/or processed tuna

products (refer to 50 CFR 216.24(f)(2)(iii) for a complete list).

Separately, NMFS initially received approval from OMB for the Seafood Import Monitoring Program (SIMP) under Control Number 0648–0739. NMFS implemented SIMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Section 307(1)(Q) of the MSA prohibits the importation of fish or fish products that have been harvested in violation of a foreign law or regulation, or in contravention of a binding conservation measure of an RFMO to which the United States is a contracting party. Under SIMP, information on the harvest event must be submitted in ACE as part of the entry filing for designated fish products to allow NMFS to determine that the fish or fish products were lawfully acquired and are therefore admissible into U.S. commerce. In 2019, NMFS included shrimp and abalone entries in SIMP, and received initial OMB approval for the additional reporting burden for shrimp and abalone entries under a separate Control Number (0648– 0776).

In the 2020 collection renewal of 0648–0732, OMB granted the NMFS request to merge all the trade monitoring programs under one collection, which incorporated the reporting burdens associated with collections 0648–0739 and 0648–0776 within the scope of 0648–0732. Generally, these trade monitoring programs are similar and require anyone who intends to import, export, and/or re-export regulated species to: Obtain an International Fisheries Trade Permit (IFTP) from NMFS; obtain documentation on the flag-nation authorization for the harvest from the foreign exporter; and submit this information to NMFS. Depending on the commodity, specific information may also be required, such as the flag-state of the harvesting vessel, the ocean area of catch, the fishing gear used, the harvesting vessel name, and details and authorizations related to harvest, landing, transshipment, and export.

II. Method of Collection

The initial requirement for U.S. entities trading in reportable commodities is to apply for an IFTP. To obtain an IFTP, U.S. importers, exporters, and re-exporters of seafood products covered under the TTVP, AMLR, HMS ITP, and SIMP programs would be required to electronically submit their application and fee for the IFTP via the National Permits System available online at: NOAA Fisheries Permits.

III. Data

OMB Control Number: 0648–0732.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; Federal government.

Estimated Number of Respondents: 1,800 per year.

Estimated Time per Response: International Trade Fisheries Permits, 20 minutes; Dataset submission in ITDS/ACE, 18 minutes; Audit Response, 30 minutes; Supply Chain Recordkeeping, 15 minutes.

Estimated Total Annual Burden Hours: 103,717 hours.

Estimated Total Annual Cost to Public: $1,854,000.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: 16 U.S.C. 1385, 16 U.S.C. 1826(a), 16 U.S.C. 971(a), 19 U.S.C. 1411

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve the renewal. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–20622 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC406]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (NPFMC) Joint Protocol Committee will meet October 13, 2022.

DATES: The meeting will be held on Thursday, October 13, 2022, from 8:30 a.m. to 12 p.m., Alaska Time.

ADDRESSES:

Meeting address: The in-person component of the meeting will be held at the William A. Egan Civic & Convention Center, 555 W 5th Ave., Anchorage, AK 99501. Or watch online through the link at *https://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo&date=10-13-2022&meeting=anchorage.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809.

Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council Executive Director; phone: (907) 271–2809 and email: *david.witherell@noaa.gov.* For technical support, please contact administrative Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, October 13, 2022

The agenda will include staff reports on: (1) the status of Bristol Bay red king crab, Bering Sea snow crab, and Bering Sea tanner crab stocks, (2) updates on snow crab rebuilding, (3) federal Pacific cod stock assessment and management, (4) Council action on small boat access,

(5) State Pacific cod management, and (6) State-managed Pacific cod proposals, along with public testimony and committee discussion on these items. The agenda is subject to change, and the latest version will be posted at *https://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo&date=10-13-2022&meeting=anchorage* prior to the meeting, along with meeting materials.

Connection Information

You can watch the meeting online using a computer, tablet, or smart phone. Connection information will be posted online at: *https://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo&date=10-13-2022&meeting=anchorage.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to: *https://arcg.is/1ze8ii* by 11:59 p.m. Alaska time on Wednesday, October 5, 2022. An opportunity for oral public testimony will also be provided during the meeting.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 20, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20675 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC317]

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Final Phase II Restoration Plan: #3.2: Mid-Barataria Sediment Diversion

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

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act of 1969 (NEPA); the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS) and Record of Decision; and the Consent Decree, the *Deepwater Horizon* (DWH) Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) prepared the Final Phase II Restoration Plan #3.2: Mid-Barataria Sediment Diversion (Final Phase II RP #3.2). The Final Phase II RP #3.2 presents the Louisiana TIG's OPA evaluation of a proposed 75,000 cubic feet per second (cfs) capacity Mid-Barataria sediment diversion (*i.e.,* Alternative 1, the Proposed MBSD Project) and five alternatives to help restore natural resources and ecological services injured or lost as a result of the DWH oil spill. The Louisiana TIG evaluated these alternatives under criteria identified in the Final Phase II RP #3.2, including those set forth in the OPA natural resource damage assessment regulations. In accordance with NEPA, the environmental consequences of the MSBD alternatives are evaluated in the associated U.S. Army Corps of Engineers, New Orleans District (USACE CEMVN) *Final Environmental Impact Statement for the Proposed Mid Barataria Sediment Diversion Project, Plaquemines and Jefferson Parishes* (MBSD FEIS). The Louisiana TIG Federal Trustees participated as cooperating agencies in the preparation of the MBSD FEIS. The purpose of this notice is to inform the public of the availability of the Final Phase II RP #3.2, the Louisiana TIG's selection of Alternative 1 as its preferred alternative, and following adoption of the MBSD FEIS, the Louisiana TIG's intention to make an OPA NRDA decision regarding implementation of the preferred alternative.

ADDRESSES: *Obtaining Documents:* You may download the Final Phase II RP #3.2 at: *http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana.* The associated MBSD FEIS may be downloaded at: *http://www.mvn.usace.army.mil/Missions/Regulatory/Permits/Mid-Barataria-Sediment-Diversion-EIS/.*

FOR FURTHER INFORMATION CONTACT: National Oceanic and Atmospheric Administration—Mel Landry, NOAA Restoration Center, (301) 427–8711, *gulfspill.restoration@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The DWH oil spill is the largest offshore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The DWH Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the DWH oil spill under OPA (33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016 Consent Decree approved

by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are selected and implemented by the Louisiana TIG. The Louisiana TIG is composed of the following Trustees: CPRA; LOSCO; LDEQ; LDWF; LDNR; NOAA; DOI; EPA; and USDA.

Background

The DWH oil spill resulted in the oiling of more than 1,100 kilometers of wetlands, nearly all of which were located in coastal Louisiana. The heaviest oiling occurred in the Barataria Basin, resulting in substantial injuries to natural resources in the basin. The impact of those injuries was intensified by the fragile nature of the basin. Already suffering from significant coastal erosion, marshes in the Barataria Basin that experienced heavy oiling subsequently experienced double or triple the rate of marsh loss. Recognizing that the resulting loss of marsh productivity affected resources throughout the northern Gulf of Mexico ecosystem, the State of Louisiana and the federal Trustees that negotiated the DWH Natural Resource Damages settlement allocated $4 billion, almost half of the total settlement amount, to restoring Louisiana's wetland, coastal, and nearshore habitats.

The DWH NRDA Trustees began analyzing strategies for restoring those coastal losses that resulted from the DWH oil spill beginning as part of the settlement process and leading to the preparation of the Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS, DWH NRDA Trustees, 2016). To address the large-scale impacts, they agreed that ''[d]iversions of Mississippi River water into adjacent wetlands have a high probability of providing these types of large-scale benefits for the long-term sustainability of deltaic wetlands'' (DWH NRDA Trustees, 2016, page 5–25).

Building on the Final PDARP/PEIS, the Louisiana TIG began evaluating restoration strategies that could restore for injuries to natural resources in the Barataria Basin, which resulted in the Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin, Louisiana (SRP/EA #3).

In the SRP/EA #3, the LA TIG ultimately determined that a combination of ''marsh creation and ridge restoration plus a large-scale sediment diversion would provide the greatest level of benefits to injured Wetlands, Coastal, and Nearshore Habitats and to the large suite of injured resources that depend in their life cycle on productive and sustainable wetland habitats'' (LA TIG, 2018, page 3–32) in the basin and in the broader northern Gulf of Mexico.

Since finalizing the SRP/EA #3, the Louisiana TIG has evaluated a variety of potential alternatives for a large-scale sediment diversion in the Barataria Basin. This Final Phase II RP #3.2, along with the MBSD FEIS released simultaneously by the USACE CEMVN, set forth the results of that evaluation.

Overview of the Louisiana TIG Final Phase II RP #3.2

The Final Phase II RP #3.2 is being released in accordance with NRDA regulations for restoration planning under OPA in 15 CFR part 990, NEPA (42 U.S.C. 4321 *et seq.*), the Consent Decree, and the Final PDARP/PEIS. The structural features of the Proposed MBSD Project and its alternatives are located in south Louisiana on the west bank of the Mississippi River at River Mile (RM) 60.7, just north of the Town of Ironton. The anticipated outfall area for sediment, freshwater, and nutrients conveyed from the river is located within the Mid-Barataria Basin. The area of the Proposed MBSD Project and its alternatives includes the hydrologic boundaries of the Barataria Basin and the lower Mississippi River Delta Basin, also known as the birdfoot delta. The Mississippi River itself, beginning near RM 60.7 and extending to the mouth of the river, is also included in the Proposed MBSD Project area.

In the Final Phase II RP #3.2, the Louisiana TIG selects its preferred alternative under the DWH Louisiana Restoration Area Wetlands, Coastal and Nearshore Habitats restoration type. The preferred alternative (Alternative 1) consists of a controlled sediment and freshwater intake diversion structure in Plaquemines Parish on the right descending bank of the Mississippi River at RM 60.7. The preferred alternative would have a maximum diversion flow of 75,000 cfs, which would occur when the Mississippi River gauge at Belle Chase reaches 1,000,000 cfs or higher. The diversion would operate at up to 5,000 cfs (base flow) when the river is below 450,000 cfs at Belle Chase; at river flows above 450,000 cfs, the diversion would be opened fully. At the downstream end of the diversion channel, an engineered ''outfall transition feature'' would be constructed to guide and disperse the channel flow into the Barataria Basin. The preferred alternative is projected to increase land area, including emergent wetlands and mudflats, in the Barataria Basin across the 50-year analysis period relative to natural recovery, with a maximum increase of 17,300 acres in 2050, at the approximate mid-point of the 50-year analysis period.

The cost of the Proposed MBSD Project at the time of the Draft Phase II RP #3.2 was anticipated to be approximately $2 billion. Since the publication of the Draft Phase II RP #3.2, substantial increases in the general inflation rate as well as corresponding increases to most cost components of the Proposed MBSD Project, including but not limited to construction materials, construction activities, and wages, have occurred. CPRA has experienced an average 25% increase in costs on its recent restoration projects. If selected for implementation, CPRA will not know the amount of the cost increase for the Proposed MBSD Project until it completes negotiations for a Guaranteed Maximum Price for project construction with the Construction Management At Risk contractor. Those negotiations will not begin until after the publication of this Final Phase II RP #3.2. In light of this uncertainty as to total project costs, the Louisiana TIG intends to limit its contribution to the overall project costs to $2.26 billion if it is selected for implementation. This would help ensure that DWH settlement funding would be available to construct all projects currently under consideration as well as for future large-scale wetlands, coastal, and nearshore habitat restoration projects not yet proposed. The cap would also ensure that planned DWH payments to the Louisiana TIG would be sufficient to cover project costs as it continues to be designed and implemented. To ensure the Monitoring and Adaptive Management (MAM) and Mitigation and Stewardship Plans are fully funded, the Louisiana TIG's contribution would cover the majority of MAM associated costs (a NRDA investment of up to $148,800,000, including contingency funding) and the Mitigation and Stewardship costs (currently estimated at $378,000,000, including contingency funding). A portion of the engineering and design costs has been paid by the National Fish and Wildlife Federation's Gulf Environmental Benefit Fund. The remaining Louisiana TIG contribution would be applied toward other project cost categories. CPRA has committed to providing funding for all costs that exceed the Louisiana TIG's funding cap of $2,260,000,000.

The Louisiana TIG fully evaluated a smaller-capacity diversion with a

maximum capacity of 50,000 cfs (Alternative 2). The Trustees found that such a diversion would provide substantially less benefit in marsh preservation and restoration, with only a small reduction in adverse impacts and a slight cost reduction.

The Louisiana TIG also fully evaluated a larger-capacity diversion with a maximum capacity of 150,000 cfs (Alternative 3). While the marsh creation benefits of such a large diversion would be significantly greater, the collateral injuries would also increase to levels unacceptable to the Trustees.

Three other alternatives (Alternatives 4–6) would divert the same flow (cfs) capacities as described above for Alternatives 1–3, and would include marsh terrace outfall features. While providing some benefits, the outfall feature alternatives do not substantially change the extent to which the corresponding alternatives with similar capacities and without terraces meet the Louisiana TIG's goals and objectives for the project.

While the Louisiana TIG has rejected the No-Action-Alternative for this Final Phase II RP #3.2, the OPA analysis provided in Chapter 3 integrates information about the MBSD FEIS No-Action Alternative (40 CFR 1502.14(c)) because it provides a baseline against which the benefits and collateral injuries of the Proposed MBSD Project and its alternatives can be compared.

The Louisiana TIG is committed to continuing efforts to restore the resources that would be adversely affected by the Proposed MBSD Project if selected for implementation, many of which were also injured by the DWH oil spill. The Proposed MBSD Project includes a MAM Plan and a Mitigation and Stewardship Plan. The Project also now includes a Marine Mammal Intervention Plan, which was developed in response to public comments. These plans serve as an integral part of the proposed restoration action. The MAM Plan includes (1) methods for specific types of monitoring, (2) key performance measures/indicators for assessing the success of the Proposed MBSD Project in meeting its objectives, and (3) decision criteria and processes for modifying (''adapting'') current or future management actions. The Mitigation and Stewardship Plan includes actions to help to address collateral impacts of construction and operation of the Proposed MBSD Project. The Marine Mammal Intervention Plan outlines a spectrum of potential response actions for dolphins affected by the operation of the Proposed MBSD Project, ranging from recovery/relocation to no intervention to euthanasia. As part of the Project, CPRA would have responsibility for ensuring implementation of the measures outlined in each of these Plans.

The Louisiana TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In Final Phase II RP #3.2, the Louisiana TIG presents to the public its plan for providing partial compensation to the public for injured natural resources and ecological services in the Louisiana Restoration Area. The preferred alternative is intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the DWH oil spill. Additional restoration planning for the Louisiana Restoration Area will continue irrespective of whether the preferred alternative is selected for implementation.

Trustees typically choose to combine a restoration plan and the required NEPA analysis into a single document (33 CFR 990.23(a), (c)(1)). In this case, the Final Phase II Restoration Plan #3.2 does not include integrated NEPA analysis. This is because prior to evaluation of the Proposed MBSD Project by the Louisiana TIG as a restoration project under OPA, the USACE CEMVN initiated scoping for the MBSD Project EIS based on a permit application for the Project by CPRA. In this case, to increase efficiency, reduce redundancy, and be consistent with Federal policy and 40 CFR 1506.3, the four Federal Trustees in the Louisiana TIG decided to participate as cooperating agencies in the development of a single MBSD EIS. As the lead agency, the USACE CEMVN has primary responsibility for preparing the MBSD EIS (40 CFR 1501.5(a)). The Louisiana TIG is relying on the MBSD Final EIS to evaluate potential environmental effects of the MBSD Project and its alternatives evaluated in this Final Phase II RP #3.2.

The Louisiana TIG solicited public comment on the Draft Phase II RP #3.2 for a total of 90 days between March 5, 2021 and June 3, 2021 (86 FR 12915, March 5, 2021). Three public meetings were held during the comment period. This period ran concurrently with the USACE CEMVN public comment period on the MBSD DEIS. Following the comment period, the 40,699 comment submissions received were reviewed by the Louisiana TIG and taken into consideration in the preparation of this Final Phase II RP #3.2. The Final Phase II RP #3.2 includes a summary of the comments received and responses to those comments.

Next Steps

Following publication of the Louisiana TIG's Final Phase II RP #3.2 and the USACE CEMVN's MBSD FEIS, conclusion of the NEPA 30-day wait period, and issuance of the Louisiana TIG's Record of Decision, the Louisiana TIG intends to finalize its decision (15 CFR 990.23(c)(2)(ii)(G)) and document such by Louisiana TIG Resolution. Until that time, the Louisiana TIG would not have made a final decision on the proposed Project on the proposed Project.

Additional Access to Materials

You may request a CD of the Final Phase II RP #3.2 (see **FOR FURTHER INFORMATION CONTACT** above). Copies of the Final Phase II RP #3.2 and MBSD FEIS are also available at the following locations:

REPOSITORIES WITH PAPER AND ELECTRONIC COPIES (USB DRIVES) OF THE FINAL PHASE II RP #3.2 AND MBSD FINAL EIS; EXECUTIVE SUMMARIES OF BOTH ARE AVAILABLE IN ENGLISH, VIETNAMESE AND SPANISH

Repository	Address	City	ZIP code
Jefferson Parish Library, Lafitte Library	4917 City Park Drive	Lafitte	70067
Jefferson Parish Library, West Bank Regional Library	2751 Manhattan Boulevard	Harvey	70058
New Orleans Public Library, East New Orleans Regional Library	5641 Read Boulevard	New Orleans	70127
Plaquemines Parish Public Library, Belle Chasse Library	8442 Highway 23	Belle Chasse	70037
Plaquemines Parish Public Library, Port Sulphur Library	139 Civic Drive	Port Sulphur	70083
Plaquemines Parish Public Library, Buras Library	35572 Highway 11	Buras	70041
Lafourche Parish Public Library, Larose Library	305 East Fifth Street	Larose	70373
Lafourche Parish Public Library, South Lafourche Branch	16241 East Main Street	Cut Off	70345
St. Charles Parish Library, Paradis Branch	307 Audubon Street	Paradis	70080
St. Tammany Parish Library	310 West 21st Avenue	Covington	70433

REPOSITORIES WITH PAPER AND ELECTRONIC COPIES (USB DRIVES) OF THE FINAL PHASE II RP #3.2 AND MBSD FINAL EIS; EXECUTIVE SUMMARIES OF BOTH ARE AVAILABLE IN ENGLISH, VIETNAMESE AND SPANISH—Continued

Repository	Address	City	ZIP code
Terrebonne Parish Library	151 Library Drive	Houma	70360
New Orleans Public Library	219 Loyola Avenue	New Orleans	70112
East Baton Rouge Parish Library	7711 Goodwood Boulevard	Baton Rouge	70806
Jefferson Parish Library, East Bank Regional Library	4747 West Napoleon Avenue	Metairie	70001
St. Bernard Parish Library	2600 Palmisano Boulevard	Chalmette	70043
St. Martin Parish Library	201 Porter Street	St. Martinville	70582
Alex P. Allain Library	206 Iberia Street	Franklin	70538
Vermillion Parish Library	405 East Saint Victor Street	Abbeville	70510
Martha Sowell Utley Memorial Library	314 Saint Mary Street	Thibodaux	70301
Calcasieu Parish Public Library Central Branch	301 West Claude Street	Lake Charles	70605
Iberia Parish Library	445 East Main Street	New Iberia	70560
Mark Shirley, Louisiana State University Agricultural Center	1105 West Port Street	Abbeville	70510
Simi Kang, Coastal Communities Consulting	324 North Avenue	Pittsburgh, PA	15209
Grand Bayou Indian Village Tribal Center	P.O. Box 1021	Port Sulphur	70083
Coalition to Restore Coastal Louisiana	3801 Canal Street, Suite 325	New Orleans	70119
Coastal Communities Consulting, Inc	925 Behrman Highway, Suite 15	Gretna	70056
Greater New Orleans Foundation	919 Saint Charles Avenue	New Orleans	70130
Gulf Restoration Network	330 Carondelet Street, Suite 300.	New Orleans	70130
South Louisiana Wetlands Discovery Center	7910 Park Avenue	Houma	70364
Lower Ninth Ward Center for Sustainable Engagement and Development.	5227 Chartres Street	New Orleans	70117
Mary Queen of Vietnam Community Development Corporation, Inc.	4626 Alcee Fortier Boulevard # E.	New Orleans	70129
United Houma Nation	20986 Highway 1	Golden Meadow	70357
Zion Travelers Cooperative Center	120 Thomas Lane	Braithwaite	70040

Translation Opportunities

The Executive Summary of the Final Phase II RP #3.2 is available in Vietnamese and Spanish from the Louisiana TIG website at: *http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana.* Vietnamese and Spanish translations of materials prepared for the public review of the MBSD DEIS and Draft Phase II RP #3.2 remain available on USACE CEMVN's project web page. Pre-recorded presentations from the MBSD DEIS and Draft Phase II RP #3.2 public meetings also remain available on USACE CEMVN's project web page. The recordings are available in English, Vietnamese, Khmer, and Spanish.

Administrative Record

The documents comprising the Administrative Record for the Final Phase II RP #3.2 can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Oil Pollution Act Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: September 19, 2022.

Sunny Snider Centrella,

Deputy Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2022–20570 Filed 9–22–22; 4:15 pm]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC341]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting of the Highly Migratory Species Management Team (HMSMT).

DATES: The meeting will be held Wednesday, October 12, 2022, through Friday, October 14, 2022, starting at 9 a.m. PT each day. Meeting times are an estimate, meetings will end when business for the day has been completed.

ADDRESSES:

Meeting address: The meeting will be held in the Pacific Room at the National Marine Fisheries Service Southwest Fisheries Science Center, 8901 La Jolla Shores Dr., La Jolla, CA 92037.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The principal purpose of this meeting is to discuss and prepare analyses supporting Council action on hard caps for the California large mesh driftnet (DGN) fishery. This action would establish hard caps (*i.e.,* limits) on the number of observed mortalities/injuries of nine high priority protected species identified by the Council. Hard caps may apply to individual vessels or the fishery as a whole. If a limit is met or exceeded, both the observed vessel and any vessels determined to be unobservable would stop fishing, or the DGN fishery as a whole, would close for a prescribed time period. At its June 2022 meeting, the Council chose a range of alternatives for a hard caps fishery management regime to support further consideration of the action. The HMSMT will also discuss ongoing work to reevaluate the definition of essential fish habitat described in the HMS Fishery Management Plan, other

relevant items on the agenda of the November 2022 Council meeting, and future HMSMT work on tasks assigned to it by the Council. A meeting agenda will be posted to the Council website at least one week before the start of the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 20, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20658 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC397]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council's is convening its Scientific and Statistical Committee (SSC) via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held Wednesday, October 12, 2022, beginning at 9 a.m.

ADDRESSES: The meeting will be held via webinar. Webinar registration information: *https://attendee.gotowebinar.com/register/1819322733700720142.* Call in information: +1 (213) 929–4212, Access Code: 387–509–610.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee will meet to review the information provided by the Council's Scallop Plan Development Team and recommend the overfishing limits (OFLs) and acceptable biological catches (ABCs) for Atlantic sea scallops for fishing years 2023 and 2024 (default). Also on the agenda is the review the information provided by the Council's Groundfish Plan Development Team and the results of the Level 1 management track stock assessments for witch flounder, ocean pout, and Atlantic wolffish. Using the Council's acceptable biological catch (ABC) control rules, recommend the overfishing levels (OFL) and the ABCs for each stock for fishing years 2023, 2024 and 2025. They will consider other business as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 20, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20678 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; The Ocean Enterprise: A Study of U.S. Business Activity in Ocean Measurement, Observation and Forecasting

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 22, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0712 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Carl Gouldman, Director, U.S. IOOS Office, National Ocean Service, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, (240) 533–9454, *carl.gouldman@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of an existing information collection.

NOAA's National Ocean Service's U.S. Integrated Ocean Observing System (IOOS) Office is requesting approval to continue a web-based survey of employers who provide either services or infrastructure to IOOS or organizations that add value to the IOOS data and other outputs by tailoring them for specific end uses. The purpose of the survey and overall project is to gather data to articulate the collective and derived value of the IOOS enterprise and to create a profile of businesses and organizations who are involved with providing services or utilizing the data for other specific end uses. This survey was conducted in FY2015 and FY2020, and is intended to be repeated on a regular basis in order to track the growth of the U.S. Ocean Enterprise. The survey is a critical data collection piece of the project and is necessary in order to collect demographic, financial, and functional information for each organization with regard to their involvement with IOOS. The final deliverable of this project is an analytic report detailing the findings of the web survey and the analysis of the employer database. The results will demonstrate the size and economic impact of IOOS data to the United States marine ocean sector.

II. Method of Collection

Electronically and via email.

III. Data

OMB Control Number: 0648–0712.

Form Number(s): None.

Type of Review: Regular submission; Extension of a current information collection.

Affected Public: Business or other for-profit organizations and Not-for-profit institutions.

Estimated Number of Respondents: 300.

Estimated Time Per Response: 0.5 hours.

Estimated Total Annual Burden Hours: 150.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Section 12304 of the Integrated Coastal and Ocean Observation System Act, part of the Omnibus Public Land Management Act of 2009 (Pub. L. 111– 11), and reauthorized under the Coordinated Ocean Observations and Research Act of 2020 (Pub. L. 116–271).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–20628 Filed 9–22–22; 8:45 am]

BILLING CODE 3510–JE–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* October 23, 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 4/29/2022, 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 service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping, or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service(s)

Service Type: Labeling and Packaging Vials
Mandatory for: NOAA, National Marine Fisheries Service, Seattle, WA
Designated Source of Supply: AtWork!, Bellevue, WA
Contracting Activity: NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPT OF COMMERCE NOAA

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–20670 Filed 9–22–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Quarterly Public Meeting

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of public meeting.

SUMMARY: The Committee is announcing a virtual public meeting to be held October 25, 2022.

DATES: *Register no later than:* October 24, 2022.

ADDRESSES: 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Angela Phifer, telephone: (703) 798–5873 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 register to attend a public meeting.

Summary: This notice provides information to access and participate in the October 25, 2022, regular quarterly public meeting of the Committee for Purchase From People Who Are Blind or Severely Disabled, operating as the U.S. AbilityOne Commission (Commission), via Zoom webinar. The Commission oversees the AbilityOne Program, which provides employment opportunities through Federal contracts for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Javits-Wagner-O'Day Act (41 U.S.C. Chapter 85) authorizes the contracts and established 15 Presidential appointees, including private citizens conversant with the employment interests and concerns of people who are blind or significantly disabled. Presidential appointees also include representatives of Federal agencies. The public meetings include updates from the Commission and staff.

Date and Time: October 25, 2022, from 1:00 p.m. to 4:00 p.m., ET.

Place: This meeting will occur via Zoom webinar.

Commission Statement: The Commission invites public comments or suggestions regarding the scope, requirements, and metrics for the next generation of Cooperative Agreements between the Commission and its designated Central Nonprofit Agencies (CNAs). The Cooperative Agreements cover the roles and responsibilities of the CNAs and the Commission in the administration of the AbilityOne Program. The current Cooperative Agreements may be viewed on *www.abilityone.gov* (see Cooperative Agreements link under the Quick Links heading).

Registration: Attendees not requesting speaking time must register not later than 11:59 p.m. EDT on Monday, October 24, 2022. Attendees requesting speaking time should register not later than 11:59 p.m. EDT on Thursday, October 13, 2022, and use the comment fields in the registration form to specify the intended speaking topic/s. The registration link will be posted on the Commission's home page, *www.abilityone.gov,* not later than Tuesday, September 27, 2022. During registration, you may choose to submit comments, or you may request speaking time at the meeting. The Commission may invite some attendees who submit advance comments to speak to their comments during the meeting. Comments submitted via the registration link will be reviewed with the Commission members prior to the meeting. Comments posted in the chat box during the meeting will be shared with the Commission members after the meeting.

Personal Information: Do not include any information that you do not want publicly disclosed.

For Further Information, Contact: Angela Phifer, (703) 798–5873.

The Commission is not subject to the requirements of 5 U.S.C. 552(b); however, the Commission published this notice to encourage the broadest possible participation in its October 25, 2022, public meeting.

Michael R. Jurkowski,

Deputy Director, Business Operations.

[FR Doc. 2022–20681 Filed 9–22–22; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 87 FR 57486, September 20, 2022.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m. EDT, Thursday, September 22, 2022.

CHANGES IN THE MEETING: The time and date of the meeting have changed. This meeting will now start at 1:00 p.m. EDT on Tuesday, September 27, 2022. The meeting place, Closed status, and matters to be considered, as previously announced, remain unchanged.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: September 21, 2022.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2022–20817 Filed 9–21–22; 4:15 pm]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, September 28, 2022—10:00 a.m.

PLACE: This meeting will be held remotely.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED: Briefing Matter:

Notice of Proposed Rulemaking: Safety Standard for Adult Portable Bed Rails

All attendees should pre-register for the Commission meeting using the following link: *https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e736ec3bf650b6b6fa53333c036f66a49*.

After registering you will receive a confirmation email containing information about joining the meeting.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: September 21, 2022.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2022–20800 Filed 9–21–22; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2022–HQ–0008]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are

invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 22, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Angela Duncan at the Department of Defense, Washington Headquarters Services, ATTN: Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Suite 03F09–09, Alexandria, VA 22350–3100 or call 571–372–7574.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Formative Research for Sexual Assault Leadership Training at USAF Academy; OMB Control Number 0701–0169.

Needs and Uses: This study supports the Sexual Assault Prevention and Response Office's (SAPRO) mission (and that of the larger USAF) to work toward an Air Force culture that is free of sexual violence. This effort will also support completion of USAF Academy SAPRO's DoD Junior Leader Working Group's plan of action and milestones. Ultimately, the implementation of the adapted curriculum may result in a reduced number of sexual assaults and enhanced psychological health and well-being among Airmen, enabling them to remain fit for duty. This study will collect formative research data through focus groups and interviews to inform recommendations to enhance the current USAF Academy sexual assault leadership training curriculum. Research partners at the University of Florida and RTI International will collect feedback from trainees in Squadron Officer School at Maxwell Air Force Base concerning perceived readiness for duty, perceptions of the leadership training received at USAF Academy, and opportunities for enhancement across the four-year USAF Academy curriculum.

Affected Public: Individuals or households.

Annual Burden Hours: 59.4 hours.

Number of Respondents: 330.

Responses per Respondent: 1.

Annual Responses: 330.

Average Burden per Response: 10.8 minutes.

Frequency: Once.

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20673 Filed 9–22–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2022–HQ–0002]

Submission for OMB Review; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 24, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Establishment or Amendment of a Junior Reserve Officer's Training Corps or National Defense Cadet Corps Unit; DA Form 3126, DA Form 3126–1, DA Form 918B; OMB Control Number 0702–0021.

Type of Request: Reinstatement with change of a previously approved collection.

DA Form 3126

Number of Respondents: 70.

Responses per Respondent: 1.

Annual Responses: 70.

Average Burden per Response: 60 minutes.

Annual Burden Hours: 70.

DA Form 3126–1

Number of Respondents: 70.

Responses per Respondent: 1.

Annual Responses: 70.

Average Burden per Response: 60 minutes.

Annual Burden Hours: 70.

DA Form 918B

Number of Respondents: 18.

Responses per Respondent: 1.

Annual Responses: 18.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 9.

Total

Annual Responses: 158.

Annual Burden Hours: 149.

Needs and Uses: The Junior Reserve Officers' Training Corps (JROTC) and the National Defense Cadet Corps (NDCC) are citizenship programs designed to motivate young people to be better citizens. Title 10, United States Code (U.S.C.), Section 2031 and 32 CFR part 542 provide for the establishment of units by the Department of the Army at public and private secondary schools. Educational institutions that desire to host a JROTC or NDCC unit may apply using DA Form 3126, ''Application and Contract for Establishment of a Junior Reserve Officers' Training Corps Unit,'' and 3126–1 ''Application and Contract for Establishment of a National Defense Cadet Corps Unit,'' respectively. The programs provide unique education opportunities for young citizens through their participation in a Federally sponsored curriculum while pursuing

their civilian education. Students develop citizenship, leadership, communication skills, an understanding of the role of the U.S. army in support of national objectives, and an appreciation for the importance of physical fitness. The DA Form 918B, ''Amendment to Application and Agreement for Establishment of Army Reserve Officers' Training Corps Unit,'' is used by hosting institutions to amend or cancel existing contracts for JROTC or NDCC programs, as well as Senior ROTC programs authorized under 10 U.S.C. 103. The forms are prescribed by Army Regulation (AR) 145–1, ''Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training,'' and AR 145–2, ''Organization, Administration, Operation, and Support.''

Affected Public: Not-for-profit Institutions; State, Local, or, Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20699 Filed 9–22–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2022–HQ–0012]

Submission for OMB Review; Comment Request

AGENCY: U.S. Army Corps of Engineers, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 24, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Recreation Area and Visitor Center Visitor Comment Cards; OMB Control Number 0710–0019.

Type of Request: Revision.

Number of Respondents: 45,000.

Responses per Respondent: 1.

Annual Responses: 45,000.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 3,750.

Needs and Uses: The information collection requirement is necessary to understand and determine the satisfaction of recreation visitors to U.S. Army Corps of Engineers managed recreation areas and visitor centers.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20700 Filed 9–22–22; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2022–HQ–0014]

Submission for OMB Review; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 24, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: ArmyFit Family Global Assessment Tool; OMB Control Number 0702–0147.

Type of Request: Revision.

Number of Respondents: 500,000.

Responses per Respondent: 1.

Annual Responses: 500,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 125,000.

Needs and Uses: This collection supports the mission of the Army Resiliency Directorate (ARD), HQDA G–1, to improve the readiness of the force and quality of life for the soldiers. ARD owns the Army Fitness Platform (ArmyFit). ArmyFit hosts the Global Assessment Tool (GAT), which is an assessment promoting self-development through its user feedback and enables the creation of a customized ArmyFit profile that directs individuals to tailored self-development and training resources for soldiers, their families, and Army civilians.

The Family GAT is a self-appraisal survey for assessing an individual's fitness in dimensions of strength: physical, emotional, social, spiritual, and family. It is a tool for building resilience. The survey is taken by all Soldiers and offered to family members, Department of the Army Civilians, and contractors.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20698 Filed 9–22–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors, National Defense University; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Chairman Joint Chiefs of Staff, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Visitors, National Defense University will take place.

DATES: Thursday, October 27, 2022 from 9:00 a.m. to 3:45 p.m.

ADDRESSES: Marshall Hall, Building 62, Room 155, the National Defense University, 300 5th Avenue SW, Fort McNair, Washington, DC 20319–5066. Visitors should report to the Front Security Desk in the lobby of Marshall Hall and from there, they will be directed to the meeting room.

FOR FURTHER INFORMATION CONTACT: Dr. John W. Yaeger, (202) 664–2629 (Voice), (202) 685–3920 (Facsimile); *yaegerj@ndu.edu*; Ms. Joycelyn Stevens, *joycelyn.a.stevens.civ@mail.mil; stevensj7@ndu.edu* (Email). Mailing address is National Defense University, 300 Fifth Avenue, Suite 314, Fort McNair, Washington, DC 20319–5066. Website: *http://www.ndu.edu/About/Board-of-Visitors/.* The most up-to-date changes to the meeting agenda as well as supporting documents can be found at *https://www.ndu.edu/About/Board-of-Visitors/BOV-October-27-2022.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150. Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public.

Purpose of the Meeting: The purpose of the meeting will include discussion on accreditation compliance, organizational management, resource management, and other matters of interest to the National Defense University.

Agenda: Thursday, October 27, 2022 from 9:00 a.m. to 3:45 p.m. (Eastern Time): Call to Order and Administrative Notes; State of the University Address; Update on Reaffirmation of Middle States Commission on Higher Education (MSCHE) Accreditation; Performance Management; Joint Forces Staff College Overview; Discussion of Public Written Comments; Board of Visitors Member Deliberation and Feedback; Wrap-up and Closing Remarks.

Meeting Accessibility: Limited space made available for observers will be allocated on a first come, first served basis. Meeting location is handicap accessible. The Main Gate/Visitor's Gate on 2nd Street SW is open 24/7. All non-DoD, non-federally-affiliated visitors MUST use this gate to access Fort McNair.

Base Access Requirements: All visitors without a U.S. DoD Common Access Card (CAC) or U.S. military ID must be vetted in advance to gain entry onto the base. Per the U.S. Army, all non-DoD civilians are required to have a background check before being allowed on a military installation; better known as vetting. It is highly recommended that visitors undergo the pre-vetting process and apply online as detailed in this notice.

For pre-vetting: To allow sufficient time for processing, access requests should be submitted 10 days before the event. The visitor will receive notification via email, and, if approved, a one-day visitor's pass for entry onto the base. The visitor must print the pass and present it to the guard at the gate to enter Fort McNair.

(a) If the visitor has a valid U.S. driver's license: The visitor can apply for access online at *https://pass.aie.army.mil/jbmhh/.* Under Reason for Visit, select ''Other.'' Alternatively, the visitor can apply in person at the Fort McNair Visitor Control Center (VCC)/Police Substation (Building 65) from 8:00 a.m. to 4:00 p.m. Monday through Friday.

(b) If the visitor does not have a U.S. driver's license: The visitor must fill out a paper application in person at the Fort McNair Visitor Control Center (VCC)/Police Substation (Building 65) from 8:00 a.m. to 4:00 p.m. Monday through Friday.

For vetting the day of the event: The visitor must apply in person at the Fort McNair Visitor Control Center (VCC)/Police Substation (Building 65) from 8:00 a.m. to 4:00 p.m. Monday through Friday. The visitor should plan to arrive early, as the procedure for running background checks and issuing passes can take much longer than expected.

For additional information, please go to *https://home.army.mil/jbmhh/index.php/my-fort/allservices/access-gate-info.*

Vehicle Search: Non-DoD, non-federally-affiliated visitors' vehicles are subject to search.

Written Statements: Pursuant to 41 CFR 102–3.105 and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, written statements to the committee may be submitted to the committee at any time or in response to a stated planned meeting agenda by email or fax to Ms. Joycelyn Stevens at *bov@ndu.edu* or Fax (202) 685–3920. Any written statements received by 5:00 p.m. on Wednesday, October 26 will be distributed to the Board of Visitors, National Defense University in the order received. Comments pertaining to the agenda items will be discussed during the public meeting. Any written statements received after the deadline will be provided to the members of the Board of Visitors, National Defense University prior to the next scheduled meeting and posted on the website.

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20688 Filed 9–22–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0114]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant to the Secretary of Defense for Public Affairs (OASD(PA)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant to the Secretary of Defense for Public Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 22, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Assistant to the Secretary of Defense for Public Affairs, ATTN: Policy and Executive Services Directorate, 1400 Defense Pentagon, Washington, DC 20301–1400, or call Kyle Combs at (703) 695–6290.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Request for Armed Forces Participation in Public Events (Non-Aviation); DD Form 2536, DD Form 2535; OMB Control Number 0704–0290.

Needs and Uses: This information collection requirement is necessary to evaluate the eligibility of events to receive Armed Forces community outreach support and to determine whether requested military assets are available.

Affected Public: State, local, or tribal governments; Federal agencies or employees; for-profit and non-profit institutions; and individuals or households.

Annual Burden Hours: 17,850.

Number of Respondents: 51,000.

Responses per Respondent: 1.

Annual Responses: 51,000.

Average Burden per Response: 21 minutes.

Frequency: On occasion.

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20674 Filed 9–22–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0115]

Proposed Collection; Comment Request

AGENCY: Pentagon Force Protection Agency (PFPA), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Pentagon Force Protection Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 22, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are

received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington DC 20301–900; Mark Ryan, (703) 695–0211.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: PFPA Recruitment, Medical, and Fitness Division Forms; PFPA Form 1400, PFPA Form 1407, PFPA Form 1408, PFPA Form 1409, PFPA Form 1410, PFPA Form 6040; OMB Control Number 0704–0588.

Needs and Uses: This information collection is essential to the Pentagon Force Protection Agency and is used to make a determination of fitness for federal employment in the field of law enforcement. To that end, criminal, background and medical information is collected on the applicants.

Affected Public: Individuals.

Annual Burden Hours: 520 hours.

Number of Respondents: 3,600.

Responses per Respondent: 1.

Annual Responses: 3,600.

Average Burden per Response: PFPA Form 1400: 5 minutes; PFPA Form 1407: 5 minutes; PFPA Form 1408: 5 minutes; PFPA Form 1409: 10 minutes; PFPA Form 1410: 10 minutes; PFPA Form 6040: 20 minutes.

Frequency: On occasion.

Dated: September 20, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20679 Filed 9–22–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces tests, test forms, and delivery formats that the Secretary determines to be suitable for use in the National Reporting System for Adult Education (NRS). This notice relates to the approved information collections under OMB control numbers 1830–0027 and 1830–0567.

FOR FURTHER INFORMATION CONTACT: John LeMaster, Department of Education, 400 Maryland Avenue SW, Room 10–223, Potomac Center Plaza, Washington, DC 20202–7240. Telephone: (202) 245–6218. Email: *John.LeMaster@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 January 14, 2008, and as amended on August 19, 2016, we published in the **Federal Register** final regulations for 34 CFR part 462, Measuring Educational Gain in the National Reporting System for Adult Education (NRS regulations) (73 FR 2305, January 14, 2008, as amended at 81 FR 55552, August 19, 2016). The NRS regulations established the process the Secretary uses to determine the suitability of tests for use in the NRS by States and local eligible providers. We annually publish in the **Federal Register**, and post on the internet at *www.nrsweb.org,* a list of the names of tests and the educational functioning levels the tests are suitable to measure in the NRS as required by § 462.12(c)(2).

On August 7, 2020, the Secretary published in the **Federal Register** (85 FR 47952) an annual notice consolidating information from previous notices that announced tests determined to be suitable for use in the NRS, in accordance with § 462.13 (August 2020 notice). Also, in the August 2020 notice, the Secretary announced that English as a Second Language (ESL) tests and test forms approved for an extended period through February 2, 2021, are approved for an additional extended period through February 2, 2023, and that an Adult Basic Education (ABE) test and test forms previously approved for a three-year period through March 7, 2021, are approved for an extended period through March 7, 2023.

On December 6, 2021, the Secretary published in the **Federal Register** (86 FR 69021), an annual notice with the same list of approved tests and test forms as was published in the August 2020 notice (December 2021 notice).[1]

In this notice, the Secretary announces that ESL tests and test forms previously approved for an extended period through February 2, 2023, are approved for an additional extended period through February 2, 2024, and that an ABE test and test forms previously approved for an extended period through March 7, 2023, are approved for an additional extended period through March 7, 2024.

The Secretary is taking this action with respect to the previously approved tests and test forms, due to the Department's desire to minimize the continuing potential disruption in access to new tests for its grantees caused by the Novel Coronavirus Disease (COVID–19).

Adult education programs must use only the forms and computer-based delivery formats for the tests approved in this notice. If a particular test form or computer delivery format is not explicitly specified for a test in this notice, it is not approved for use in the NRS.

TESTS DETERMINED TO BE SUITABLE FOR USE IN THE NRS FOR A SEVEN-YEAR PERIOD FROM THE PUBLICATION DATE OF THE ORIGINAL NOTICE IN WHICH THEY WERE ANNOUNCED:

The Secretary has determined that the following test is suitable for use in Literacy/English Language Arts and Mathematics at all ABE levels of the NRS until September 7, 2024:

(1) *Tests of Adult Basic Education (TABE 11/12).* Forms 11 and 12 are approved for use on paper and through a computer-based delivery format. Publisher: Data Recognition Corporation—CTB, 13490 Bass Lake Road, Maple Grove, MN 55311. Telephone: 800–538–9547. Internet: *www.ctb.com/*.

The Secretary has determined that the following test is suitable for use in Literacy/English Language Arts at all ABE levels of the NRS until February 5, 2025:

(1) *Comprehensive Adult Student Assessment System (CASAS) Reading GOALS Series.* Forms 901, 902, 903, 904, 905, 906, 907, and 908 are approved for use on paper and through a computer-based delivery format. Publisher: CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA 92123–4339. Telephone: (800) 255–1036. Internet: *www.casas.org/*.

The Secretary has determined that the following tests are suitable for use at ABE levels 2 through 6 of the NRS until May 2, 2026:

(1) *Massachusetts Adult Proficiency Test—College and Career Readiness (MAPT–CCR) for Reading.* This test is approved for use through a computer-adaptive delivery format. Publisher: Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, College of Education, N110, Furcolo Hall, 813 North Pleasant Street Amherst, MA 01003. Telephone: (413)

[1] The December 6, 2021 notice restated the October 21, 2021 notice (86 FR 58258), as it was amended by the November 15, 2021 notice (86 FR 63007).

545–0564. Internet: *www.doe.mass.edu/acls/assessment/*.

(2) *Massachusetts Adult Proficiency Test—College and Career Readiness (MAPT–CCR) for Mathematics.* This test is approved for use through a computer-adaptive delivery format. Publisher: Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, College of Education, N110, Furcolo Hall, 813 North Pleasant Street, Amherst, MA 01003. Telephone: (413) 545–0564. Internet: *www.doe.mass.edu/acls/assessment/*.

TEST DETERMINED TO BE SUITABLE FOR USE IN THE NRS FOR A THREE–YEAR PERIOD FROM THE PUBLICATION DATE OF THE ORIGINAL NOTICE IN WHICH IT WAS ANNOUNCED, PREVIOUSLY APPROVED FOR AN EXTENDED PERIOD THROUGH MARCH 7, 2023, AND APPROVED FOR AN ADDITIONAL EXTENDED PERIOD THROUGH MARCH 7, 2024:

The Secretary has determined that the following test is suitable for use in Mathematics at all ABE levels of the NRS until March 7, 2024:

(1) *Comprehensive Adult Student Assessment System (CASAS) Math GOALS Series.* Forms 900, 913, 914, 917, and 918 are approved for use on paper and through a computer-based delivery format. Publisher: CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA 92123–4339. Telephone: (800) 255–1036. Internet: *www.casas.org/*.

ESL TESTS PREVIOUSLY APPROVED FOR AN EXTENDED PERIOD THROUGH FEBRUARY 2, 2023, AND APPROVED FOR AN ADDITIONAL EXTENDED PERIOD THROUGH FEBRUARY 2, 2024:

The Secretary has determined that the following tests are suitable for use at all ESL levels of the NRS until February 2, 2024:

(1) *Basic English Skills Test (BEST) Literacy.* Forms B, C, and D are approved for use on paper. Publisher: Center for Applied Linguistics, 4646 40th Street NW, Washington, DC 20016–1859. Telephone: (202) 362–0700. Internet: *www.cal.org*.

(2) *Basic English Skills Test (BEST) Plus 2.0.* Forms D, E, and F are approved for use on paper and through the computer-adaptive delivery format. Publisher: Center for Applied Linguistics, 4646 40th Street NW, Washington, DC 20016–1859. Telephone: (202) 362–0700. Internet: *www.cal.org*.

(3) *Comprehensive Adult Student Assessment Systems (CASAS) Life and Work Listening Assessments (LW Listening).* Forms 981L, 982L, 983L, 984L, 985L, and 986L are approved for use on paper and through the computer-based delivery format. Publisher: CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA 92123–4339. Telephone: (800) 255–1036. Internet: *www.casas.org*.

(4) *Comprehensive Adult Student Assessment Systems (CASAS) Reading Assessments (Life and Work, Life Skills, Reading for Citizenship, Reading for Language Arts—Secondary Level).* Forms 27, 28, 81, 82, 81X, 82X, 83, 84, 85, 86, 185, 186, 187, 188, 310, 311, 513, 514, 951, 952, 951X, and 952X of this test are approved for use on paper and through the computer-based delivery format. Publisher: CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA 92123–4339. Telephone: (800) 255–1036. Internet: *www.casas.org*.

(5) *Tests of Adult Basic Education Complete Language Assessment System-English (TABE/CLAS–E).* Forms A and B are approved for use on paper and through a computer-based delivery format. Publisher: Data Recognition Corporation—CTB, 13490 Bass Lake Road, Maple Grove, MN 55311. Telephone: (800) 538–9547. Internet: *www.tabetest.com*.

REVOCATION OF TESTS:

Under certain circumstances, the Secretary may revoke the determination that a test is suitable (see § 462.12(e)). If the Secretary revokes the determination of suitability, the Secretary announces the revocation, as well as the date by which States and local eligible providers must stop using the revoked test, through a notice published in the **Federal Register** and posted on the internet at *www.nrsweb.org*.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document 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.

Program Authority: 29 U.S.C. 3292.

Amy Loyd,

Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2022–20684 Filed 9–22–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

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), Hanford. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, October 19, 2022 1:00 p.m.–4:00 p.m. and 5:00 p.m.–8:00 p.m. Thursday, October 20, 2022 9:00 a.m.–4:00 p.m.

ADDRESSES: This hybrid meeting will be in-person at the Holiday Inn Richland on the River (address below) and virtually. To receive the virtual access information and call-in number, please contact the Federal Coordinator, Gary Younger, at the telephone number or email listed below at least five days prior to the meeting.

The meeting will be held, strictly following COVID–19 precautionary measures, at: Holiday Inn Richland on the River, 802 George Washington Way, Richland, WA 99352.

Attendees should check with the Federal Coordinator (below) for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Gary Younger, Federal Coordinator, U.S. Department of Energy, Hanford Office of Communications, Richland Operations Office, P.O. Box 550, Richland, WA, 99354; Phone: (509) 372–0923; or Email: *gary.younger@rl.doe.gov.*

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:

- Tri-Party Agreement Agencies' Updates
- Board Subcommittee Reports
- Discussion of Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gary Younger at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or within five business days after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gary Younger. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available at the following website: *http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.*

Signing Authority

This document of the Department of Energy was signed on September 19, 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 20, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–20647 Filed 9–22–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–1219–000.
Applicants: Stagecoach Pipeline & Storage Company LLC.
Description: § 4(d) Rate Filing: Stagecoach Pipeline & Storage Company LLC–SWN–0003 and MSCG–004 to be effective 10/1/2022.
Filed Date: 9/16/22.
Accession Number: 20220916–5130.
Comment Date: 5 p.m. ET 9/28/22.

Docket Numbers: RP22–1220–000.
Applicants: Northwest Pipeline LLC.
Description: § 4(d) Rate Filing: Non-Conforming Agreements—JP Morgan & Vitol to be effective 10/17/2022.
Filed Date: 9/16/22.
Accession Number: 20220916–5140.
Comment Date: 5 p.m. ET 9/28/22.

Docket Numbers: RP22–1221–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Pioneer Oct–Dec 2022) to be effective 10/1/2022.
Filed Date: 9/16/22.
Accession Number: 20220916–5146.
Comment Date: 5 p.m. ET 9/28/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 19, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20649 Filed 9–22–22; 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: EC22–121–000.
Applicants: BigBeau Solar, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of BigBeau Solar, LLC.
Filed Date: 9/16/22.
Accession Number: 20220916–5307.
Comment Date: 5 p.m. ET 10/7/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–224–000.
Applicants: GulfStar Power, LLC.
Description: GulfStar Power, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/19/22.
Accession Number: 20220919–5112.
Comment Date: 5 p.m. ET 10/11/22.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–88–000.
Applicants: Duke Energy Florida, LLC.
Description: Petition for Declaratory Order of Duke Energy Florida, LLC.
Filed Date: 9/13/22.
Accession Number: 20220913–5158.
Comment Date: 5 p.m. ET 10/13/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–289–008; ER19–2462–006; ER19–2264–002.
Applicants: Northern Indiana Public Service Company LLC, Macquarie Energy LLC, Cleco Cajun LLC.
Description: Triennial Market Power Analysis for the Northwest Region of Cleco Cajun LLC, et al.
Filed Date: 6/30/22.
Accession Number: 20220630–5331.
Comment Date: 5 p.m. ET 11/18/22.

Docket Numbers: ER22–2880–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, SA No. 6597; Queue No. AF2–294 to be effective 8/19/2022.
Filed Date: 9/19/22.
Accession Number: 20220919–5054.
Comment Date: 5 p.m. ET 10/11/22.
Docket Numbers: ER22–2881–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2022–09–19 Energy Storage Bid Cost Recovery to be effective 9/20/2022.
Filed Date: 9/19/22.
Accession Number: 20220919–5056.
Comment Date: 5 p.m. ET 10/11/22.
Docket Numbers: ER22–2882–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: DG&T Const Agmt Bonanza Solar Resource Model to be effective 11/19/2022.
Filed Date: 9/19/22.
Accession Number: 20220919–5059.
Comment Date: 5 p.m. ET 10/11/22.
Docket Numbers: ER22–2883–000.
Applicants: Western Interconnect LLC.
Description: Compliance filing: Order 881 Compliance Filing to be effective 7/12/2022.
Filed Date: 9/19/22.
Accession Number: 20220919–5072.
Comment Date: 5 p.m. ET 10/11/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 19, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20650 Filed 9–22–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket Nos.
Pisgah Ridge Solar LLC	EG22–135–000
Maple Flats Solar Energy Center LLC	EG22–136–000
Kossuth County Wind, LLC	EG22–137–000
IP Lumina, LLC	EG22–138–000
IP Lumina II, LLC	EG22–139–000
Deerfield Wind Energy 2, LLC	EG22–140–000
IP Oberon, LLC	EG22–141–000
IP Oberon II, LLC	EG22–142–000
Blue Harvest Solar Park LLC	EG22–143–000
Timber Road Solar Park LLC	EG22–144–000
Buffalo Ridge Wind, LLC	EG22–145–000
Invenergy Nelson Expansion LLC	EG22–146–000
Invenergy Nelson LLC	EG22–147–000
West Texas Solar Project II LLC	EG22–148–000
Big Cyprus Solar, LLC	EG22–149–000
Bakeoven Solar, LLC	EG22–150–000
Daybreak Solar, LLC	EG22–151–000
Northwest Ohio IA, LLC	EG22–152–000
Northwest Ohio Solar, LLC	EG22–153–000
EDPR CA Solar Park LLC	EG22–154–000
EDPR CA Solar Park II LLC	EG22–155–000
EDPR Scarlet I LLC	EG22–156–000
Clearwater Wind I, LLC	EG22–157–000

Take notice that during the month of August 2022, the status of the above-captioned entities as Exempt Wholesale Generators Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2021).

Dated: September 19, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20651 Filed 9–22–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0348; FRL–10166–01–OCSPP]

Pesticide Registration Review; Proposed Final Decision for Pentachloronitrobenzen; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed final registration review decision and opens a 60-day public comment period on the proposed final decision for pentachloronitrobenzene (PCNB).

DATES: Comments must be received on or before November 22, 2022.

ADDRESSES: The docket for this action, identified under docket identification (ID) number EPA–HQ–OPP–2015–0348, is available online at *https://www.regulations.gov.* Additional instructions on visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for PCNB identified in Table 1 in Unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for PCNB identified in Table 1 in Unit IV.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at: *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed a proposed final decision PCNB, as listed in Table 1 in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of PCNB pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed final registration review decision for PCNB shown in Table 1 and opens a 60-day public comment period on the proposed final registration review decision.

TABLE 1—PROPOSED FINAL DECISION

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Pentachloronitrobenzene (PCNB), Case Number 0128.	EPA–HQ–OPP–2015–0348	Rachel Stephenson, *stephenson.rachel@epa.gov,* (202) 566–2363.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the docket for PCNB describe EPA's rationales for conducting additional risk assessments for the registration review of PCNB, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. This proposed final registration review decision is supported by the rationales included in those documents. Following public comment, the Agency plans to issue a final registration review decision for PCNB.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed final registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed final decision. All comments should be submitted using the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the docket for PCNB. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The final registration review decision will explain the effect that any comments had on the final decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *https://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 19, 2022.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2022–20683 Filed 9–22–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–036]

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 12, 2022 10 a.m. EST Through September 19, 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://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20220135, Final, FERC, LA, Line 200 and Line 300 Project, Review Period Ends: 10/24/2022, Contact: Office of External Affairs 1–866–208–3372.

EIS No. 20220136, Draft, FERC, LA, Venice Extension Project, Comment Period Ends: 11/07/2022, Contact: Office of External Affairs 866–208–3372.

EIS No. 20220137, Final, USACE, LA, Proposed Mid-Barataria Sediment Diversion Project in Plaquemines Parish, Louisiana, Review Period Ends: 10/24/2022, Contact: Brad Laborde 504–862–2225.

Dated: September 19, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–20646 Filed 9–22–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0072; FRL–10232–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS/NESHAP for Wool Fiberglass Insulation Manufacturing Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS/NESHAP for Wool Fiberglass Insulation Manufacturing Plants (EPA ICR Number 1160.15, OMB Control Number 2060–0114), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2022. Public comments were previously requested, via the **Federal Register**, on April 8, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 24, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0072, online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 63, subpart A and 40 CFR part 60, subpart A), as well as for the specific requirements at 40 CFR part 63, subpart NNN and 40 CFR part 60 Subpart PPP. This includes submitting initial notification reports, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards. This information is being collected to assure compliance with 40 CFR part 60, subpart PPP.

Form Numbers: None.

Respondents/affected entities: Wool fiberglass insulation manufacturing plants.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart PPP and 40 CFR part 63, subpart NNN).

Estimated number of respondents: 38 (total).

Frequency of response: Semiannual.

Total estimated burden: 5,580 hours (per year) (total). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,250,000 (per year), which includes $585,445 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a net adjustment decrease in burden from

the most-recently approved ICR due to more accurate estimates of existing sources. The industry trade organization North American Insulation Manufacturers Association (NAIMA) commented in response to consultation that an estimate of five facilities subject to 40 CFR part 63, subpart NNN is more accurate than the previous estimate, while the previous estimate of facilities subject to subpart PPP is increasing by one due to construction of a new facility. The labor cost per facility has increased due to updated labor rates from the most-recent Bureau of Labor Statistics report (September 2021).

There is a net adjustment decrease in the operation and maintenance (O&M) costs as calculated in section 6(b)(iii) compared with the costs in the previous ICR, due to the decreased number of respondents subject to Subpart NNN based on the information provided by NAIMA. This offsets the increase in capital and O&M costs due to the addition of one facility subject to Subpart PPP.

This ICR also includes an adjustment decrease in the annual estimated hours to familiarize with regulatory requirements (Table 1b) to align with the typical time required for existing respondents to refamiliarize themselves with the NESHAP regulations each year.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–20585 Filed 9–22–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0066; FRL–10231–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Grain Elevators (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Grain Elevators (EPA ICR Number 1130.13, OMB Control Number 2060–0082), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved November 30, 2022. Public comments were previously requested, via the **Federal Register**, on April 8, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 24, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0066, online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) apply to each affected facility at any grain terminal elevator or any grain storage elevator. The facilities are each truck unloading station, truck loading station, barge and ship loading station, railcar loading station, railcar unloading station, grain dryer and all grain handling operations that commenced construction, modification or reconstruction after August 3, 1978. Owners or operators of the affected facilities must make a one-time-only report of the date of construction or reconstruction, notification of the actual date of startup, notification of any physical or operational change to existing facility that may increase the rate of emission of the regulated pollutant, notification of initial performance test; and results of initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction, or any period during which the monitoring system is inoperative.

Form Numbers: None.

Respondents/affected entities: Grain elevator operators.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart DD).

Estimated number of respondents: 200 (total).

Frequency of response: Initially.

Total estimated burden: 460 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $55,000 (per year), which includes no annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup and/or operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–20545 Filed 9–22–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0021; FRL–10235–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Secondary Aluminum Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Secondary Aluminum Production (EPA ICR Number 1894.11, OMB Control Number 2060–0433), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2022. Public comments were previously requested, via the **Federal Register**, on April 8, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 24, 2022.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0021, online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production (40 CFR part 63, subpart RRR) were proposed on February 11, 1999; and promulgated on March 23, 2000; and amended on the following dates: December 30, 2002 (67 FR 79808); September 3, 2004 (69 FR 53980); October 3, 2005 (70 FR 57513); December 19, 2005 (70 FR 75320); September 18, 2015 (80 FR 56700); and June 13, 2016 (81 FR 38085). These regulations apply to existing facilities and new facilities that are secondary aluminum production facilities and major sources of hazardous air pollutants (HAP) either commencing construction, or reconstruction, after the date of proposal. This includes facilities that operate aluminum scrap shredders, thermal chip dryers, scrap dryers/delacquering kilns/decoating kilns, group 1 furnaces, group 2 furnaces, sweat furnaces, dross only furnaces, rotary dross coolers, and secondary aluminum processing units (SAPUs). The SAPUs include group 1 furnaces and in-line fluxers. The regulations also apply to secondary aluminum production facilities that are area sources of HAP only with respect to emissions of dioxins/furans (D/F) from thermal chip dryers, scrap dryers/delacquering kilns/decoating kilns, group 1 furnaces, sweat furnaces, and SAPUs. New facilities include those that either commenced construction, or reconstruction, after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart RRR.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Form Numbers: None.

Respondents/affected entities: Secondary aluminum production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63 subpart RRR).

Estimated number of respondents: 161 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 12,400 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $5,590,000 (per year), which includes $4,110,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations; (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs. There is a slight decrease in the number of responses, based on the correction of a mathematical error in the calculation of the number of responses from the currently approved ICR.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–20618 Filed 9–22–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0853, OMB 3060–0989; FR ID 105800]

Information Collections 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 might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' 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.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before October 24, 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 Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@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 Nicole Ongele at (202) 418–2991. 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: 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: 3060–0853.

Title: Certification by Administrative Authority to Billed Entity Compliance with the Children's Internet Protection Act Form, FCC Form 479; Receipt of Service Confirmation and Certification of Compliance with the Children's Internet Protection Act Form, FCC Form 486; and Funding Commitment and Adjustment Request Form, FCC Form 500.

Form Numbers: FCC Forms 479, 486 and 500.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents and Responses: 58,500 respondents; 73,400 responses.

Estimated Time per Response: 1 hour for FCC Form 479, 1 hour for FCC Form 486, 1 hour for FCC Form 500, and 0.75 hours for maintaining and updating the internet Safety Policy.

Frequency of Response: On occasion and annual reporting requirements and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302.

Total Annual Burden: 68,275 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no assurance of confidentiality provided to respondents concerning this information collection. However, respondents may request materials or information submitted to the Commission or the Administrator be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

Needs and Uses: The Commission is requesting the Office of Management and Budget (OMB) approval to revise the currently approved requirements contained in this information collection. There is an increase in burden hours of 14,900 hours. The purpose of this information is to ensure that schools and libraries that are eligible to receive discounted Internet Access Services (Category One), and Broadband Internal Connections, Managed Internal Broadband Services, and Basic Maintenance of Broadband Internal Connections (Basic Maintenance) (known together as Category Two Services) have in place internet safety policies. Schools and libraries receiving these services must certify, by completing a FCC Form 486 (Receipt of Service Confirmation and Certification of Compliance with the Children's Internet Protection Act), that respondents are enforcing a policy of internet safety and enforcing the operation of a technology prevention measure. Also, respondents who received a Funding Commitment Decision Letter indicating services eligible for universal service funding must file FCC Form 486 to indicate their service start date and to start the payment process. In addition, all members of a consortium must submit signed certifications to the Billed Entity of their consortium using a FCC Form 479; Certification by Administrative Authority to Billed Entity of Compliance with Children's Internet Protection Act, in language consistent with the certifications adopted for the FCC Form 486. Consortia must, in turn,

certify collection of the FCC Forms 479 on the FCC Form 486. FCC Form 500 is used by E-rate participants to adjust previously filed forms, such as changing the contract expiration date filed with the FCC Form 471, changing the funding year service start date filed with the FCC Form 486, cancelling or reducing the amount of funding commitments, requesting extensions of the deadline for nonrecurring services, and notifying USAC of equipment transfers. All requirements contained herein are necessary to implement the congressional mandate for universal service.

OMB Control Number: 3060–0989.

Title: Sections 63.01, 63.03, 63.04, Procedures for Applicants Requiring Section 214 Authorization for Domestic Interstate Transmission Lines Acquired Through Corporate Control.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 92 respondents; 92 responses.

Estimated Time per Response: 1.5–14 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection is contained in 47 U.S.C. 152, 154(i)–(j), 201, 214, and 303(r).

Total Annual Burden: 1,201 hours.

Total Annual Cost: $107,925.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality. The FCC is not requiring applicants to submit confidential information to the Commission. If applicants want to request confidential treatment of the documents they submit to Commission, they may do so under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: A Report and Order, FCC 02–78, adopted and released in March 2002 (Order), set forth the procedures for common carriers requiring authorization under section 214 of the Communications Act of 1934, as amended, to acquire domestic interstate transmission lines through a transfer of control. Under section 214 of the Act, carriers must obtain FCC approval before constructing, acquiring, or operating an interstate transmission line. Acquisitions involving interstate common carriers require affirmative action by the Commission before the acquisition can occur. This information collection contains filing procedures for domestic transfer of control applications under sections 63.03 and 63.04. The FCC filing fee amount for section 214 applications is currently $1,230 per application, which reflects an increase from the previous fee of $1,195 per application.

(a) Sections 63.03 and 63.04 require domestic section 214 applications involving domestic transfers of control, at a minimum, should specify: (1) the name, address and telephone number of each applicant; (2) the government, state, or territory under the laws of which each corporate or partnership applicant is organized; (3) the name, title, post office address, and telephone number of the officer or contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed; (4) the name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one percent); (5) certification pursuant to 47 CFR 1.2001 that no party to the application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988; (6) a description of the transaction; (7) a description of the geographic areas in which the transferor and transferee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area; (8) a statement as to how the application fits into one or more of the presumptive streamlined categories in section 63.03 or why it is otherwise appropriate for streamlined treatment; (9) identification of all other Commission applications related to the same transaction; (10) a statement of whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure; (11) identification of any separately filed waiver request being sought in conjunction with the transaction; and (12) a statement showing how grant of the application will serve the public interest, convenience, and necessity, including any additional information that may be necessary to show the effect of the proposed transaction on competition in domestic markets.

In FCC 20–133, adopted September 30, 2020, and released October 1, 2020, the Commission, in order to reduce the need for supplemental requests and to ensure expeditious processing of applications, added the requirements in § 63.04(a)(4) for carrier applicants seeking domestic section 214 authorization to transfer control to specify the voting interests of any person or entity owning 10 percent of the applicants, as well as provide an ownership diagram that illustrates an applicant's vertical ownership structure: (i) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). Where no individual or entity directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, a statement to that effect; and (ii) An ownership diagram that illustrates the applicant's vertical ownership structure, including the direct and indirect ownership (equity and voting) interests held by the individuals and entities named in response to paragraph (a)(4)(i) of this section. Every individual or entity with ownership shall be depicted and all controlling interests must be identified. The ownership diagram shall include both the pre-transaction and post-transaction ownership of the authorization holder.

Where an applicant wishes to file a joint international section 214 transfer of control application and domestic section 214 transfer of control application, the applicant must submit information that satisfies the requirements of 47 CFR 63.18. In the attachment to the international application, the applicant must submit information described in 47 CFR 63.04(a)(6).

When the Commission, acting through the Wireline Competition Bureau, determines that applicants have submitted a complete application qualifying for streamlined treatment, it shall issue a public notice commencing a 30-day review period to consider whether the transaction serves the public interest, convenience and necessity. Parties will have 14 days to file any comments on the proposed transaction, and applicants will be given 7 days to respond. (b) Applicants are not required to file post-consummation notices of pro forma transactions, except that a post transaction notice must be filed with the Commission within 30 days of a pro forma transfer to a bankruptcy trustee or a debtor-in-possession. The notification can be in the form of a letter (in duplicate to the Secretary, Federal Communications Commission). The letter or other form of notification must also contain the information listed in sections (a)(1). A single letter may be filed for more than

one such transfer of control. The information will be used by the Commission to ensure that applicants comply with the requirements of 47 U.S.C. 214.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–20680 Filed 9–22–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1087; FR ID 105566]

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 22, 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:

Title: Section 15.615, General Administrative Requirements (Broadband Over Power Line (BPL).

OMB Control Number: 3060–1087.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions; and State, local or Tribal Government.

Number of Respondents and Responses: 100 respondents; 100 responses.

Estimated Time per Response: 26 hours.

Frequency of Response: On occasion reporting 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. 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 2,600 hours.

Total Annual Cost: $60,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The FCC does not require any confidentiality in the information provided to the database. There are no proprietary or trade/technological standards to which these BPL entities wish to restrict access.

Needs and Uses: The Commission will submit this expiring information collection after this 60 day comment period to the Office of Management and Budget (OMB) to obtain the full three year clearance. Section 15.615 requires entities operating Access BPL systems shall supply to an industry-recognized entity, information on all existing Access BPL systems and all proposed Access BPL systems for inclusion into a publicly available database, within 30 days prior to installation of service. Such information should include the name of the Access BPL provider; the frequencies of the Access BPL operation; the postal ZIP codes served by the specific Access BPL operation; the manufacturer and type of Access BPL equipment and its associated FCC ID number, contact information; and proposed/or actual date of operation.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–20686 Filed 9–22–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1104; FR ID 105269]

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 of 1995 (PRA), the Federal Communications Commission (FCC or 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 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.

DATES: Written PRA comments should be submitted on or before November 22, 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 Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1104.

Title: Section 73.682(d), DTV Transmission and Program System and Information Protocol (''PSIP'') Standards.

From Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 1,812 respondents and 1,812 responses.

Estimated Hours per Response: 0.50 hours.

Frequency of Response: Third Party Disclosure requirement; Weekly reporting requirement.

Total Annual Burden: 47,112 hours.

Total Annual Cost: No costs.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 309 and 337 of the Communications Act of 1934, as amended.

Needs and Uses: Section 73.682(d) of the Commission's rules incorporates by reference the Advanced Television Systems Committee, Inc. (''ATSC'') Program System and Information Protocol (''PSIP'') standard ''A/65C.'' PSIP data is transmitted along with a TV broadcast station's digital signal and provides viewers (via their DTV receivers) with information about the station and what is being broadcast, such as program information. The Commission has recognized the utility that the ATSC PSIP standard offers for both broadcasters and consumers (or viewers) of digital television (''DTV'').

ATSC PSIP standard A/65C requires broadcasters to provide detailed programming information when transmitting their broadcast signal. This standard enhances consumers' viewing experience by providing detailed information about digital channels and programs, such as how to find a program's closed captions, multiple streams and V-chip information. This standard requires broadcasters to populate the Event Information Tables (''EITs'') (or program guide) with accurate information about each event (or program) and to update the EIT if more accurate information becomes available. The previous ATSC PSIP standard A/65–B did not require broadcasters to provide such detailed programming information but only general information.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–20657 Filed 9–22–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, September 28, 2022 at 10:00 a.m. and its continuation at the conclusion of the open meeting on September 29, 2022.

PLACE: 1050 First Street NE, Washington, DC and virtual (this meeting will be a hybrid meeting).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Authority: Government in the Sunshine Act, 5 U.S.C. 552b.

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2022–20807 Filed 9–21–22; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 11, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Debra Wrobel Trust, Debra Wrobel, individually, and as trustee, both of Glencoe, Illinois;* to acquire voting shares of Amalgamated Investments Company, and thereby indirectly acquire voting shares of Amalgamated Bank Chicago, both of Chicago, Illinois.

Additionally, Amalgamated Investments Company Voting Trust Agreement, Chicago, Illinois, Robert Wrobel, as trustee, Highland Park, Illinois; to become members of the Wrobel Family Group, a group acting in concert, to acquire voting shares of Amalgamated Investments Company, and thereby indirectly acquire voting shares of Amalgamated Bank Chicago.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–20769 Filed 9–22–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–22–0255]

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 ''Resources and Services Database of the National Prevention Information Network (NPIN)'' 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. No comments related to the previous notice were received. 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

Resources and Services Database of the National Prevention Information Network (NPIN) (OMB Control No. 0920–0255, Exp. 01/31/2023)—Revision—National Center for HIV, Viral Hepatitis, Sexually Transmitted Diseases, and Tuberculosis Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NCHHSTP has the primary responsibility within the CDC and the U.S. Public Health Service for the prevention and control of HIV infection, viral hepatitis, sexually transmitted diseases (STDs), and tuberculosis (TB), as well as for community-based HIV prevention activities, syphilis, and TB elimination programs. NCHHSTP established the National Prevention Information Network (NPIN) to serve the public and to facilitate partnerships and coordination among organizations that provide prevention, education, and referral services relevant to its mission.

NPIN serves as the most comprehensive U.S. reference, referral, and distribution service for information on HIV/AIDS, viral hepatitis, STDs, and TB, supporting NCHHSTP's mission to link Americans to prevention, education, and care services. The NPIN Resources and Services Database contains entries on approximately 10,700 organizations. The American public can access the NPIN resources and Services database through the NPIN websites. More than 1,600,000 unique visitors and more than 3,000,000 page views are recorded annually.

CDC requests OMB approval to continue information collection for the NPIN, with minor changes. New information will be added about self-testing services and associated fees. If NPIN does not continue this information collection and verification project, the potential number of resource listings will be significantly reduced, and the accuracy and currency of the existing records will be greatly diminished.

Information will be collected via telephone interview or online form. Information collection for a new resource will be collected using the NPIN Initial Questionnaire Telephone Script, which serves as a guide for the telephone call with NPIN staff. Organizations with access to the internet will be given the option to complete and submit an electronic version of the questionnaire by visiting the NPIN website. The same information is in both modes of data collection, but the format of the NPIN online questionnaire was modified to decrease free text, which improves the time needed to complete the form. To accomplish CDC's goal of continuing efforts to maintain an up-to-date, comprehensive database, NPIN plans each year to add up to 800 newly identified organizations and verify those organizations currently described in the NPIN Resources and Services Database each year. This data collection uses no inferential statistical methods. The data collected is in textual or anecdotal format and will be used for information purposes.

After new organizations are entered into NPIN, they are asked to participate in an annual verification and update process to ensure the ongoing accuracy, timeliness, and usefulness of information disseminated through NPIN. The estimated burden for participating in the verification process is six minutes. Verification may be conducted by telephone interview or email.

CDC requests OMB approval for three years. Participation is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden is 1,164 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Organizations that provide prevention, education, testing, and healthcare services relating to HIV/AIDS, viral hepatitis, STD, and TB.	NPIN Initial Questionnaire Telephone Script	800	1	7/60
Organizations that provide prevention, education, testing, and healthcare services relating to HIV/AIDS, viral hepatitis, STD, and TB.	NPIN Telephone Verification	9,095	1	6/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Organizations that provide prevention, education, testing, and healthcare services relating to HIV/AIDS, viral hepatitis, STD, and TB.	NPIN Online Questionnaire	1,605	1	6/60

Jeffery M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2022–20600 Filed 9–22–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–22–0729; Docket No. CDC–2022–0114]

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 Customer Surveys Generic Clearance for the National Center for Health Statistics. The goal of this project is to conduct voluntary customer surveys to assess strengths in agency products and services, and to evaluate how well it addresses the emerging needs of its data users.

DATES: CDC must receive written comments on or before November 22, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0114 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

Customer Surveys Generic Clearance for the National Center for Health Statistics (OMB Control No.0920–0729, Exp. 08/31/2023)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the U.S. Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on ''the extent and nature of illness and disability of the population of the United States.'' This is an Extension request for a Generic approval from OMB to conduct customer surveys over the next three years at an overall burden rate of 2,250 hours annually.

As part of a comprehensive program, the National Center for Health Statistics (NCHS) plans to continue to assess its customers' satisfaction with the content, quality and relevance of the information it produces. NCHS will conduct voluntary customer surveys to assess strengths in agency products and services and to evaluate how well it addresses the emerging needs of its data users. Results of these surveys will be used in future planning initiatives.

The data will be collected using a combination of methodologies appropriate to each survey. These may include: evaluation forms, mail surveys, focus groups, automated and electronic technology (*e.g.,* email, Web-based surveys), and telephone surveys. Systematic surveys of several groups will be folded into the program. Among

these are federal customers and policy makers, state and local officials who rely on NCHS data, the broader educational, research, and public health community, and other data users. Respondents may include data users who register for and/or attend NCHS sponsored conferences; persons who access the NCHS website and the detailed data available through it; consultants; and others. Respondent data items may include (in broad categories) information regarding respondent's gender, age, occupation, affiliation, location, etc., to be used to characterize responses only. Other questions will attempt to obtain information that will characterize the respondents' familiarity with and use of NCHS data, their assessment of data content and usefulness, general satisfaction with available services and products, and suggestions for improvement of surveys, services and products.

In order to capture anticipated feedback opportunities, this extension request allows for both respondents and time per response for a total estimated annual burden total of 2,250 hours. There is no cost to respondents other than their time to participate in the survey. The resulting information will be for NCHS internal use.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Questionnaire for conference registrants/attendees.	Public/private researchers, Consultants, and others.	1,000	1	15/60	250
Focus groups	Public/private researchers, Consultants, and others.	500	1	1	500
Web-based Surveys	Public/private researchers, Consultants, and others.	4,000	1	15/60	1,000
Other Customer Surveys	Public/private researchers, Consultants, and others.	2,000	1	15/60	500
Total					2,250

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20603 Filed 9–22–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–22IX; Docket No. CDC–2022–0113]

Proposed Data Collections 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, invites the general public and other federal agencies to take this opportunity to comment on proposed information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Study of PrEPline reported PrEP-adherent patients with HIV acquisition. The purpose of this project is to understand preferences for long-acting pre-exposure prophylaxis (LA-PrEP) products for HIV prevention among potential users and providers.

DATES: CDC must receive written comments on or before November 22, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0113 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 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

Study of PrEPline Reported PrEP-Adherent Patients with HIV Acquisition—New—National Center for HIV, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

As the use of antiretroviral preexposure prophylaxis (PrEP) continues to grow in the United States, despite the high effectiveness of PrEP (>95%) when taken as prescribed, sporadic case reports are appearing that document HIV acquisition among patients apparently adherent to the prescribed PrEP dosing schedule. Because PrEP medications can alter the immune responses on which HIV testing relies, ambiguous test results also occur and present diagnostic challenges to clinicians. Careful selection of tests, and the timing and sequence in which they are done to confirm whether HIV infection has occurred, and resistance characteristics of the virus, if present, are increasingly necessary. In addition, objective measures of the amount of PrEP drug in patients around the time of potential HIV acquisition is important to assess medication adherence and further characterize PrEP effectiveness in ''real world'' settings. A system of active case detection and confirmation of HIV acquisition in PrEP-adherent patients was successfully piloted and can now be continuously implemented by leveraging clinician contacts to the National Clinician Consultation Center's (NCCC) PrEPline, PEPline, and HIV Warmline; and by obtaining consent for specimens to be shipped to the University of California San Francisco (UCSF) or the Centers for Disease Control and Prevention (CDC) for research assays. Monitoring and improving our understanding of the occurrence of ambiguous test results, HIV acquisition among PrEP patients, and their relationship to medication adherence is necessary to inform clinician management of these patients and to ensure clear messaging about PrEP ''failures'' (most of which are a result of non-adherence) and HIV testing in PrEP patients.

The PrEPline (and other ''warmlines'' operated by NCCC) and health department HIV case reporting are complementary sources of case identification. Clinicians call the PrEPline with testing and management questions soon after receiving test results for patients continuing or re-initiating PrEP, or transitioning from PEP to PrEP, and have direct access to clinical records and patients. In addition, clinicians call the HIV Warmline with questions about HIV screening/testing results and best practices in evaluation and management of patients who acquire HIV while on PrEP. Health departments typically identify such patients later (especially if by periodic review of National HIV Surveillance System data) and then must reach out to clinicians for clinical records, and sometimes for patient consents for research specimens, to confirm HIV status.

The goals are to conduct a study that obtains consent and case report information from clinicians calling the NCCC's PrEPline and HIV Warmline to help identify, assess, and discuss clinical management of: (1) PrEP patients with ambiguous HIV test results; and (2) patients who acquire HIV infection while being prescribed PrEP. This information will allow CDC to: (a) assess the proportion of clinicians with eligible patients who provide case information from medical records; (b) measure the completeness and utility of data collection forms to be sent to CDC; (c) assess the proportion of clinicians with eligible patients who refer patients to participate in a UCSF National Institutes of Health-funded study called SeroPrEP that involves specimen testing to be performed at designated specialty reference/research labs; and (d) assess the proportion of eligible patients who consent to enroll in the SeroPrEP study and provide specimens to reference/research labs to confirm HIV status and measure PrEP drug levels.

The study's target population includes clinicians calling to NCCC within 90 days of a reactive/detectable HIV test (in cases of oral PrEP use) or 180 days of a reactive/detectable HIV test (in cases of long-acting injectable cabotegravir use) about case-patients who reported:

- Regularly taking prescribed oral PrEP medication (emtricitabine or lamivudine co-formulated with either tenofovir disoproxil fumarate or tenofovir alafenamide, or oral cabotegravir) either:
  - Throughout the interval from the last negative HIV test to the date of first reactive or detectable HIV test results; *or*
  - During the interval from the last negative HIV test to stopping injections, within 18 months before the date of first reactive or detectable HIV test results.

and for whom either:

- Laboratory tests confirm acquisition of HIV infection while reportedly medication-adherent; *or*
- Laboratory tests are ambiguous (do not clearly confirm HIV status).

The study data will be collected via phone interviews with clinicians calling the NCCC PrEPline (or other warmlines) for clinical advice about diagnostic testing and clinical management of patients with ambiguous HIV test results or diagnosed HIV infection while taking PrEP medications. Data collection will last approximately five years.

Participation is voluntary. An estimated one-time reporting burden for this collection will be approximately 62 hours. This includes the time burden associated with the Provider Verbal Consent and completing the Patient Data Collection Form. CDC will enroll approximately 125 providers, at 10 minutes per Provider Verbal Consent and 20 minutes per Patient Data Collection Form, to provide patient information over five years. There are no costs to respondents other than time.

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)
Clinician	Provider Consent Form	125	1	10/60	21
Clinician report of patient information	Patient Data Collection Form	125	1	20/60	42
Total					63

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20602 Filed 9–22–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–1185; Docket No. CDC–2022–0115]

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 Youth Outreach Generic Clearance for the National Center for Health Statistics (NCHS). The goal of this Generic Clearance is to facilitate outreach efforts in the fields of math and science to young people (grades K through college) and those who support them.

DATES: CDC must receive written comments on or before November 22, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0115 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

Youth Outreach Generic Clearance for the National Center for Health Statistics (NCHS) (OMB Control No. 0920–1185, Exp. 7/31/2023)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NCHS is authorized to collect data under Section 306 of the Public Health Service Act (42 U.S.C. 242k). NCHS has a history of reaching out to young people to encourage their interest in Science, Technology, Engineering and Math (STEM). Examples of past involvement include adopting local schools, speaking at local colleges, conducting a Statistics Day for high school students, and, most recently, conducting the NCHS Data Detectives Camp for middle school students.

The success of these programs has inspired NCHS leadership and staff to want to look for new and continuing opportunities to positively impact the lives of young people and expand their interest, understanding of, and involvement in the sciences. NCHS requests approval for a New Generic Clearance mechanism to collect information for these youth outreach activities and to inform future NCHS planning activities. The activities include hosting the Data Detectives Camp annually; hosting Statistics Day annually; creating youth poster sessions for professional conferences (such as the NCHS National Conference on Health Statistics or the American Statistical Association Conference etc.); hosting a statistical or health sciences fair or other STEM related competitions; organizing a STEM Career Day or similar activity; developing web-based sites or materials with youth focus as well as other programs developed to meet future youth outreach needs, particularly activities that encourage STEM.

Information will be collected using a combination of methodologies appropriate to each program. These may include: Registration forms, letters of recommendation, evaluation forms; mail surveys; focus groups; automated and electronic technology (*e.g.,* email, Web-based surveys); and telephone surveys.

OMB approval is requested for three years to conduct the Youth Outreach Generic Clearance for the National Center for Health Statistics (NCHS). The total estimated annualized burden hours are 1,750. Participation is voluntary, and there is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of survey	Respondent	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Response burden (in hours)
Questionnaires/Applications	Student/Youth	800	1	30/60	400
Applicants Questionnaire/Application	Parents/Guardians of Applicants	800	1	30/60	400
Applications, Recommendations, and Other applicant-supporting documentation.	School Officials/Community Representatives.	1200	1	30/60	600
Focus Groups	Student/Youth; Parent/Guardian; School Officials; Other.	50	1	60/60	50
Other Program Surveys	Student/Youth; Parent/Guardian; School Officials; Other.	600	1	30/60	300
Total					1,750

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20604 Filed 9–22–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–22IV; Docket No. CDC–2022–0112]

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 The Muscular Dystrophy Surveillance, Tracking, and Research Network (MD STAR*net*) Muscular Dystrophy Questionnaire. The purpose of the proposed study is to describe the epidemiology of COVID–19 and flu and the experience with pain, fatigue, pregnancy, and infertility for adults living with muscular dystrophy (MD) who are identified through MD STAR*net*. Information will be used to develop interventions that improve the lives of people with MD and their families.

DATES: CDC must receive written comments on or before November 22, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0112 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

The Muscular Dystrophy Surveillance, Tracking, and Research Network (MD STAR*net*) Muscular Dystrophy Questionnaire—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Since its establishment in 2002, the MD STAR*net* has been a population-based surveillance system that aims to identify and collect clinical data on individuals with muscular dystrophy (MD) in select surveillance areas. MD STAR*net* identifies and collects data on cases at sources, including healthcare facilities where patients with MD

receive care and administrative datasets such as vital records and hospital discharge data. While MDs are rare genetic diseases with an estimated prevalence of 16.1/100,000, they have a high impact on affected individuals, their families, and society. MDs can be classified into nine major groups: Duchenne muscular dystrophy (DMD), Becker muscular dystrophy (BMD), myotonic dystrophy (DM), facioscapulohumeral muscular dystrophy (FSHD), limb-girdle muscular dystrophy (LGMD), congenital muscular dystrophy (CMD), Emery-Dreifuss muscular dystrophy (EDMD), and distal MD. A recent MD STAR*net* study has estimated the combined prevalence for DMD and BMD to be 1.92–2.48/10,000 males age 5–9 years old. MD STAR*net* aims to improve understanding of MDs and ultimately the quality of life of people and their families living with MD. Individuals with MDs frequently report pain and fatigue, but studies have largely been conducted in clinic-based populations and included the three most common MDs. Population-based studies are needed to describe the frequency and management of pain and fatigue and their impact on the lives of individuals with various types of MD.

The purpose of the proposed study is to describe the epidemiology of COVID–19 and flu and the experience with pain, fatigue, pregnancy, and infertility for adults living with MD who are identified through MD STAR*net.* Results generated from the study will provide a better understanding of: (1) the occurrence, testing, treatment and severity of COVID–19 in relation to MD; (2) vaccination status and reasons for not receiving COVID–19 and flu vaccinations; (3) the frequency, intensity, and management of pain and fatigue; and (4) the effect of having MD on pregnancy and fertility on adults living with MD. Ultimately, this information can be used to develop interventions that improve the lives of people with MD and their families.

CDC requests OMB approval for an estimated 974 annual burden hours. There are no costs 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
Adult males 18 and over	MD STAR*net* Male Questionnaire	1,794	1	15/60	449
Adult females 18 and over	MD STAR*net* Female Questionnaire	1,574	1	20/60	525
Total					974

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20601 Filed 9–22–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10146]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 22, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10146 Notice of Denial of Medicare Prescription Drug Coverage

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Notice of Denial of Medicare Prescription Drug Coverage; *Use:* Part D plan sponsors are required to issue the Notice of Denial of Medicare Prescription Drug Coverage notice when a request for a prescription drug or payment is denied, in whole or in part. The written notice must include a statement, in understandable language, the reasons for the denial and a description of the appeals process.

The purpose of this notice is to provide information to enrollees when prescription drug coverage has been denied, in whole or in part, by their Part D plans. The notice must be readable, understandable, and state the specific reasons for the denial. The notice must also remind enrollees about their rights and protections related to requests for prescription drug coverage and include an explanation of both the standard and expedited redetermination processes and the rest of the appeal process. *Form Number:* CMS–10146 (OMB control number 0938–0973); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits); *Number of Respondents:* 683; *Number of Responses:* 2,627,898; *Total Annual Hours:* 656,975. (For policy questions regarding this collection contact Coretta Edmondson at 410–786–0512).

Dated: September 19, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–20615 Filed 9–22–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–643]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 22, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–643 Hospice Survey and Deficiencies Report Form and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently aproved collection; *Title of Information Collection:* Hospice Survey and Deficiencies Report Form and Supporting Regulations; *Use:* We use the information collected as the basis for certification decisions for hospices that wish to obtain or retain participation in the Medicare and Medicaid programs. The information is used by CMS regional offices, which have the delegated authority to certify Medicare facilities for participation, and by State Medicaid agencies, which have comparable authority under Medicaid. The information on the Hospice Survey and Deficiencies Report Form is coded

for entry into the OSCAR system. The data is analyzed by the CMS regional offices and by the CMS central office components for program evaluation and monitoring purposes. The information is also available to the public upon request. *Form Number:* CMS–643 (OMB control number: 0938–0379); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 6,153; *Total Annual Responses:* 2,051; *Total Annual Hours:* 49,224. (For policy questions regarding this collection contact Thomas Pryor at 410–786–1132.)

Dated: September 20, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–20667 Filed 9–22–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Tribal Child Support Enforcement Direct Funding Request: 45 CFR 309 (OMB #0970–0218)

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF) is requesting a 3-year extension of the Tribal Child Support Enforcement Direct Funding Requests (Office of Management and Budget (OMB) #0970–0218, expiration March 31, 2023) with revisions. We are proposing to provide an optional Table of Contents and Cover Sheet for plan pages.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act (PRA) of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *ocse.tribal@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The final rule within 45 CFR part 309, published in the **Federal Register** on March 30, 2004, contains a regulatory reporting requirement that, in order to receive funding for a Tribal IV–D program, a tribe or tribal organization must submit a plan describing how the tribe or tribal organization meets or plans to meet the objectives of section 455(f) of the Social Security Act, including establishing paternity; establishing, modifying, and enforcing support orders; and locating noncustodial parents. The plan is required for all tribes requesting funding; however, once a tribe has met the requirements to operate a comprehensive program, a new plan is not required annually unless a tribe makes changes to its title IV–D program. If a tribe or tribal organization intends to make any substantial or material changes, a Tribal IV–D plan amendment must be submitted for approval. Tribes and tribal organizations must have an approved plan and submit any required plan amendments to receive funding to operate a Tribal IV–D program.With this request to extend approval of this information collection, OCSE is proposing a change to the paperwork by providing optional plan pages. The optional plan pages organize the Tribal IV–D plan, identify required attachments, and streamline plan amendment submissions. Tribes and tribal organizations who choose to participate will attest to complying with the regulatory requirements in 45 CFR, Parts 309 and 310 and submit plan amendments for changes to the required attachments identified in the Table of Contents. The optional plan pages organize the Tribal IV–D plan, identify required attachments, and streamline plan amendment submissions.

Respondents: Tribes and tribal Organizations.

Annual Burden Estimates

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
45 CFR 309–New Plan	2	1	480	960
45 CFR 309–Amended Plan	60	1	105	6300

Estimated Total Annual Burden Hours: 7,260.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Title IV–D of the Social Security Act; 45 CFR 309.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–20613 Filed 9–22–22; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.652]

Announcement of the Intent To Award a Single-Source Grant to the Center for Adoption Support and Education in Burtonsville, MD

AGENCY: Children's Bureau (CB), Administration for Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of Issuance of a Single-source cooperative agreement to the

Center for Adoption Support and Education (C.A.S.E) for the continued expansion and use of the National Adoption Competency Mental Health Training Initiative across the nation.

SUMMARY: The ACF, ACYF, Children's Bureau, Division of Capacity Building announces the intent to award a single-source cooperative agreement in the amount of up to $10,000,000 to the Center for Adoption Support and Education in Burtonsville, MD. The purpose of this award is to continue to scale the web-based National Training Initiative for Adoption Competent Mental Health Training program to remaining states in the nation, refine and update the curriculum as needed and perform an updated evaluation regarding current use of the curriculum.

DATES: The proposed period of performance is September 30, 2022 to September 29, 2027.

FOR FURTHER INFORMATION CONTACT: June Dorn, National Adoption Specialist, Division of Capacity Building, 333 C St. SW, Suite 3521B, Washington, DC 20201. Telephone: (202) 205–9450; Email: *June.Dorn@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Award funds will support the continued expansion and use of the National Training Initiative on Mental Health Competency across the nation. This curriculum was developed through an initial 5-year grant to C.A.S.E. and pilot tested prior to being supplemented and extended for 3 additional years for the further dissemination and integration of this important web-based training in the state child welfare training systems so there would be consistent use of the knowledge imparted by it across all child welfare systems.

This funding will allow for the continued scale up of the web-based trainings for the child welfare workforce and mental health practitioners to remaining states in the nation; the refinement and update of the curricula as needed; and additional and updated evaluation of the curricula.

Statutory Authority: Title II, section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113(b)), as amended by CAPTA Reauthorization Act of 2010.

Elizabeth A. Leo,

Senior Grants Policy Specialist, Office of Grants Policy, Office of Administration.

[FR Doc. 2022–20587 Filed 9–22–22; 8:45 am]

BILLING CODE 4184–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–1886]

Agency Information Collection Activities; Proposed Collection; Comment Request; Endorser Status and Actual Use in Direct-to-Consumer Television Ads

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed study entitled ''Endorser Status and Actual Use in Direct-to-Consumer Television Ads.''

DATES: Submit either electronic or written comments on the collection of information by November 22, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 22, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 22, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–1886 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Endorser Status and Actual Use in Direct-to-Consumer Television Ads.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this

information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: *Regarding the collection of information:* JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

For copies of the questionnaire: Amie O'Donoghue, Office of Prescription Drug Promotion (OPDP) Research Team, *DTCresearch@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Endorser Status and Actual Use in Direct-to-Consumer Television Ads

OMB Control Number 0910—NEW

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA-regulated products in carrying out the provisions of the FD&C Act.

The mission of the OPDP is to protect the public health by helping to ensure that prescription drug promotional material is truthful, balanced, and accurately communicated. OPDP's research program provides scientific evidence to help ensure that our policies related to prescription drug promotion will have the greatest benefit to public health. Toward that end, we have consistently conducted research to evaluate the aspects of prescription drug promotion that are most central to our mission, focusing in particular on three main topic areas: advertising features, including content and format; target populations; and research quality. Through the evaluation of advertising features, we assess how elements such as graphics, format, and the characteristics of the disease and product impact the communication and understanding of prescription drug risks and benefits. Focusing on target populations allows us to evaluate how understanding of prescription drug risks and benefits may vary as a function of audience, and our focus on research quality aims at maximizing the quality of research data through analytical methodology development and investigation of sampling and response issues. This study will inform the first topic area, advertising features.

Because we recognize that the strength of data and the confidence in the robust nature of the findings are improved through the results of multiple converging studies, we continue to develop evidence to inform our thinking. We evaluate the results from our studies within the broader context of research and findings from other sources, and this larger body of knowledge collectively informs our policies as well as our research program. Our research is documented on our home page at *https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/office-prescription-drug-promotion-opdp-research.* The website includes links to the latest **Federal Register** notices and peer-reviewed publications produced by our office.

The objective of the present research is to conduct experimental studies to examine issues related to endorsers in DTC prescription drug promotion. This study complements one that is currently in progress (FDA–2019–N–5900, OMB control number 0910–0894, Expiration Date: February 29, 2024). As that study examined a number of different endorser types in print or internet settings and focused on examining how various disclosures of the payment status of the endorser influenced audience reactions, this proposed research extends the prior research by examining actual-use disclosures and a different medium, television ads. Prior research has shown that endorsements by expert physicians and pharmacists were the most likely to lead to purchase intentions, followed by endorsements by consumers, and lastly, by celebrities (Refs. 1 and 2).

For healthcare providers (HCPs) endorsing a prescription drug product, guiding industry principles advise that advertisements should contain a disclosure that the HCP has been compensated for the endorsement (Ref. 3). Industry guiding principles further recommend that an advertisement disclose when an actor is being used as an HCP to promote direct-to-consumer (DTC) prescription drugs.

Pharmaceutical firms also often use everyday people, either actual patients or actors portraying patients, in DTC promotion, relying on qualities of identification with the individual endorsing the product and perceived credibility (Ref. 4). While industry guidelines recommend that companies choosing to feature actors in the roles of HCPs in a DTC television or print ad acknowledge in the ad that actors are being used, the guidelines do not mention disclosures that the ''patient'' in an ad is being portrayed by an actor (Ref. 3). Some advertisers endeavor to gain credibility among viewers by using actual patients to endorse the product, with a disclosure that states they are actual users of the product (''actual-use disclosure'') (Ref. 5).

The present research will specifically examine the influence of two independent variables—endorser type (patient, physician) and an actual-use

disclosure (utilizer, actor, none)—in television advertisements. Dependent variables will include perceptions of the risks and benefits of the promoted prescription drug, attitudes toward and perceptions of the endorser, attention paid to the ad, and behavioral intentions. Because age and education level may affect perceptions of the ad, we plan to explore whether age and education level influence these effects.

This research will involve two studies. Studies 1 and 2 will use a 2×3 factorial design run concurrently and independently with a sample of consumers who have been diagnosed with diabetes (Study 1) or rheumatoid arthritis (Study 2), each watching a DTC television ad for a fictitious drug indicated to treat the corresponding medical conditions. The ad will be manipulated to assess the impact of two categories of commonly used industry spokespeople: a patient and a physician. We will test three actual-use disclosure conditions: (1) an actual-use disclosure that indicates that the endorser either uses or prescribes the prescription drug in real life (*i.e.,* utilizer), (2) an actual-use disclosure that specifies the endorser is an actor, and (3) a control with no actual-use disclosure. The design for Studies 1 and 2 is presented in table 1.

TABLE 1—STUDY 1 AND STUDY 2 EXPERIMENTAL DESIGN

Actual-use disclosure	Endorser type	
	Patient	Physician
Utilizer		
Actor		
None		

In both studies, participants will be randomly assigned to one of six experimental conditions (see table 1), view their assigned stimulus, complete a survey, and provide feedback on one of the other ad versions. We will conduct pretests with 126 consumers who self-identify as having been diagnosed with diabetes and 126 consumers who self-identify as having been diagnosed with rheumatoid arthritis, recruited from a web-based research vendor. For the main study, we will then recruit 648 consumers who self-identify as having been diagnosed with diabetes and 648 consumers who self-identify as having been diagnosed with rheumatoid arthritis. Each participant will see one of six versions of a television ad for a fictitious prescription diabetes or rheumatoid arthritis treatment, as reflected in table 1. They will answer a questionnaire designed to take no more than 20 minutes.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN[1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)[2]	Total hours
Study 1 Pretest					
Study 1 Pretest Screener Completes	630	1	630	.03 (2 minutes)	18.9
Study 1 Pretest Questionnaire Completes	126	1	126	.30 (18 minutes)	38
Study 2 Pretest					
Study 2 Pretest Screener Completes	420	1	420	.03 (2 minutes)	12.6
Study 2 Pretest Questionnaire Completes	126	1	126	.30 (18 minutes)	38
Study 1 Main Study					
Study 1 Main Study Screener Completes	3,240	1	3,240	.03 (2 minutes)	97.2
Study 1 Main Study Questionnaire Completes	648	1	648	.30 (18 minutes)	194
Study 2 Main Study					
Study 2 Main Study Screener Completes	2,160	1	2,160	.03 (2 minutes)	64.8
Study 2 Main Study Questionnaire Completes	648	1	648	.30 (18 minutes)	194
Total					657.50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Burden estimates of less than 1 hour are expressed as a fraction of an hour in the format ''[number of minutes per response]/60.''

References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852 and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. LaTour, C. and M. Smith, ''A Study of Expert Endorsement of OTC Pharmaceutical Products,'' *Journal of Pharmaceutical Marketing & Management,* Vol. 1, Issue 2, pp. 117–128, 1986.
2. Bhutada, N.S. and B.L. Rollins, ''Disease-Specific Direct-to-Consumer Advertising of Pharmaceuticals: An Examination of Endorser Type and Gender Effects on Consumers' Attitudes and Behaviors,'' *Research in Social and Administrative*

Pharmacy, Vol. 11, Issue 6, pp. 891–900, 2015.

3. *PhRMA, ''PhRMA Guiding Principles: Direct to Consumer Advertisements About Prescription Medicines,'' *Pharmaceutical Research and Manufacturers of America,* Washington, DC, *https://www.phrma.org,* revised October 2018, available at *https://phrma.org/-/media/Project/PhRMA/PhRMA-Org/PhRMA-Org/PDF/P-R/PhRMA_Guiding_Principles_2018.pdf* (accessed May 18, 2022).
4. *Schouten, A. P., L. Janssen, and M. Verspaget, ''Celebrity vs. Influencer Endorsements in Advertising: The Role of Identification, Credibility, and Product-Endorser Fit,'' *International Journal of Advertising,* Vol. 39, Issue 2, pp. 258–281, 2020, *https://doi.org/10.1080/02650487.2019.1634898.*
5. *Bulik, B.S., ''Merck Adds Real Patient to 'TRU' Keytruda TV Ad,'' Fierce Pharma, September 27, 2017, available at *https://www.fiercepharma.com/marketing/new-merck-tv-ad-for-keytruda-continues-tru-theme-but-now-features-real-patient* (accessed May 18, 2022).

Dated: September 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20617 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–1847]

Exemption and Exclusion From Certain Requirements of the Drug Supply Chain Security Act for the Distribution of Food and Drug Administration-Approved Naloxone Products During the Opioid Public Health Emergency; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Exemption and Exclusion from Certain Requirements of the Drug Supply Chain Security Act for the Distribution of FDA-Approved Naloxone Products During the Opioid Public Health Emergency.'' Combating the opioid overdose epidemic is an urgent public health priority for FDA. Naloxone hydrochloride (''naloxone'') is a medication that rapidly reverses the effects of opioid overdose and is the standard treatment for opioid overdose. FDA understands that naloxone is being made available to underserved communities through entities such as harm reduction programs and is aware of concerns that harm reduction programs are having difficulty acquiring naloxone. FDA is issuing this guidance to clarify the scope of the public health emergency exclusion and exemption under the Drug Supply Chain Security Act as they apply to the distribution of FDA-approved naloxone products indicated for the emergency treatment of opioid overdose to harm reduction programs during the opioid public health emergency. The guidance document is immediately in effect, but it remains subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidance is published in the **Federal Register** on September 23, 2022.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–D–1847 for ''Exemption and Exclusion from Certain Requirements of the Drug Supply Chain Security Act for the Distribution of FDA-Approved Naloxone Products During the Opioid Public Health Emergency.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management

Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Pepinsky, CDER/Office of Compliance, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4258, Silver Spring, MD 20993–0002, 301–796–8763.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Exemption and Exclusion from Certain Requirements of the Drug Supply Chain Security Act for the Distribution of FDA-Approved Naloxone Products During the Opioid Public Health Emergency.'' We are issuing this guidance consistent with our good guidance practices (GGP) regulation (§ 10.115 (21 CFR 10.115)). We are implementing this guidance without prior public comment because we have determined that prior public participation is not feasible or appropriate (§ 10.115(g)(2)). The Agency made this determination because the guidance requires immediate implementation for public health reasons. Although this guidance document is immediately in effect, it remains subject to comment in accordance with FDA's GGP regulation.

Combating the opioid overdose epidemic is an urgent public health priority for FDA. Naloxone is a medication that rapidly reverses the effects of opioid overdose and is the standard treatment for opioid overdose. FDA understands that naloxone is being made available to underserved communities through entities such as harm reduction programs. FDA is aware of concerns that harm reduction programs are having difficulty acquiring naloxone. The Agency is aware that some stakeholders have viewed as a contributing factor the current availability of approved naloxone products only as prescription drugs and FDA has recently become aware that some stakeholders have viewed as a contributing factor certain requirements under the Drug Supply Chain Security Act (DSCSA) for distribution of FDA-approved prescription drug products., *e.g.,* being an authorized trading partner. FDA is issuing this guidance to clarify the scope of the public health emergency exclusion and exemption under the DSCSA as they apply to the distribution of FDA-approved naloxone products indicated for the emergency treatment of opioid overdose to harm reduction programs during the opioid public health emergency.

The guidance represents the current thinking of FDA on ''Exemption and Exclusion from Certain Requirements of the Drug Supply Chain Security Act for the Distribution of FDA-Approved Naloxone Products During the Opioid Public Health Emergency.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: September 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20552 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–1874]

Agency Information Collection Activities; Proposed Collection; Comment Request; Perceptions of Prescription Drug Products With Medication Tracking Capabilities

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed study entitled ''Perceptions of Prescription Drug Products With Medication Tracking Capabilities.''

DATES: Either electronic or written comments on the collection of information must be submitted by November 22, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 22, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
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Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and

Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–1874 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Perceptions of Prescription Drug Products With Medication Tracking Capabilities.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT:

Regarding the collection of information: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

For copies of the questionnaire: Amie O'Donoghue, Office of Prescription Drug Promotion (OPDP) Research Team, 301–796–0754, *DTCresearch@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Perceptions of Prescription Drug Products With Medication Tracking Capabilities

OMB Control Number 0910—NEW

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes the FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA-regulated products in carrying out the provisions of the FD&C Act.

The mission of the Office of Prescription Drug Promotion (OPDP) is to protect the public health by helping to ensure that prescription drug promotional material is truthful, balanced, and accurately communicated so that patients and health care providers can make informed decisions about treatment options. OPDP's research program provides scientific evidence to help ensure that our policies related to prescription drug promotion will have the greatest benefit to public health. Toward that end, we have consistently conducted research to evaluate the aspects of prescription drug promotion that are most central to our mission, focusing in particular on three main topic areas: advertising features, including content and format; target populations; and research quality. Through the evaluation of advertising features, we assess how elements such as graphics, format, and the characteristics of the disease and product impact the communication and understanding of prescription drug risks and benefits. Focusing on target populations allows us to evaluate how understanding of prescription drug risks and benefits may vary as a function of audience. Our focus on research quality aims at maximizing the quality of research data through analytical methodology development and investigation of sampling and response issues. This study will inform the first topic area, advertising features.

Because we recognize that the strength of data and the confidence in the robust nature of the findings are improved through the results of multiple converging studies, we continue to develop evidence to inform our thinking. We evaluate the results from our studies within the broader context of research and findings from other sources, and this larger body of knowledge collectively informs our policies as well as our research program. Our research is documented on our home page at *https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/office-prescription-drug-promotion-opdp-research,* which includes links to the latest **Federal Register** notices and peer-reviewed publications produced by our office.

Patient non-adherence to medication regimens is a well-known challenge in health care. The World Health Organization defines adherence as the extent to which a person's behavior—taking medication, following a diet,

and/or executing lifestyle changes—corresponds with agreed recommendations from a health care provider (Ref. 1). It is estimated that only half of all patients with chronic health conditions take their medications as prescribed (Ref. 2), leading to as many as 100,000 preventable deaths and $100 billion in additional medical costs every year (Ref. 3). Numerous solutions have been tried to improve adherence, including resource-intensive approaches such as directly observed therapy, which entails a trained observer watching as the patient takes their medications (Ref. 4), and technology-supported tools for patients (*e.g.,* smartphone apps) (Ref. 5). As attention to the public health issue of medication adherence has grown, OPDP has noted a corresponding increase in the number of claims and presentations in prescription drug promotion that focus, either directly or through implication, on a product's potential to improve adherence to treatment regimens. Many of these presentations include information about options and capabilities available to help patients track their medication usage.

One avenue that prescription drug sponsors have begun exploring to track medication use includes the development of software that is disseminated by or on behalf of the drug sponsor and accompanies one or more of the sponsor's prescription drugs. This software is called prescription drug use-related software.[1] Studies exploring drug products with prescription drug use-related software have been conducted with medications to treat an array of chronic disorders, including psychiatric disorders (Ref. 6), uncontrolled type 2 diabetes (Ref. 7), end-stage renal disease requiring transplants (Ref. 8), and opioid use among patients with acute fractures (Ref. 9).

In recent years, new technologies that capture data on medication-taking behavior and drug administration have been employed. The SureClick 2.0 autoinjector for the prescription medication ENBREL, for example, has Bluetooth built into the white cap that covers the needle. The autoinjector records initial removal of the cap and can send this data via Bluetooth to a paired smartphone using a mobile app (Ref. 10). Technology can also now support the use of ingestible sensors embedded in pills that will emit a weak signal to a receiver (patch or lanyard) worn by the patient after the pill has been swallowed (Ref. 11). This data can then be transmitted to a paired mobile device and viewed by the patient through a smartphone app (Ref. 12). Whether these new technologies will have an impact on adherence is currently unknown.

Very little is known about patient and health care provider perceptions of products that track medication use or that work in tandem with software to track medication use, with most commentaries having been largely theoretical (Refs. 13, 14). The focus of the present study is to explore patient and health care provider perceptions of a fictitious prescription drug product that is accompanied by software that is intended to track medication use.

We have the following specific questions:

Research questions:

1. When prescription drug promotional communications include claims about a product's ability to track medication use, do these claims influence perceptions about the product's risks and/or benefits (including its effect on medication adherence)?

2. If the promotional claims about the product's ability to track medication use are accompanied by a disclosure that describes what is known about the effect of medication tracking on medication adherence, does this have an influence on perceptions of the product's risks and/or benefits (including its effect on medication adherence)?

To complete this research, we propose the design in table 1, which varies based on:

- Whether the fictitious prescription drug product includes technology that tracks medication use;
- Whether the prescription drug promotional communication includes a disclosure describing what is known about the tracking technology's effect on medication adherence; and
- What the disclosure communicates about the tracking technology's effect on medication adherence (positive effect shown, no effect shown, or unknown effect).

TABLE 1—PROPOSED ONE-WAY, FIVE-LEVEL DESIGN (1 × 5)

Experimental condition	Claims about existence of medication tracking technology	Disclosure about technology's effect on adherence	Content of disclosure
1. Drug	No	No.	
2. Drug + medication tracking technology	Yes	No.	
3. Drug + medication tracking technology + no adherence data collected.	Yes	Yes	No data is available on the technology's effect on adherence.
4. Drug + medication tracking technology + data show no effect on adherence.	Yes	Yes	Data show the technology has no effect on adherence.
5. Drug + medication tracking technology + data show a positive effect on adherence.	Yes	Yes	Data show the technology has a positive effect on adherence.

Note: Condition 5 is the only condition in which an adherence benefit has been demonstrated for the fictitious product. The evidence required to support a medication adherence claim is not the focus of this study, and the evidence will not be described in the disclosure.

Condition 2 is a control because the drug product does include medication tracking technology, but the promotional communication does not include a disclosure about the technology's effect on medication adherence. Condition 1 is a true control because the drug product does not include medication tracking technology. Comparisons between conditions 1 and 2 will show us the baseline of this issue, *i.e.,* will indicate whether the fact that the drug product contains a tracking technology will alter perceptions of risks and benefits (including adherence).

We will conduct pretests with 50 consumers who self-identify as having been diagnosed with diabetes and 50 primary care physicians who treat diabetes (both obtained from a web-based research vendor) to ensure that

[1] In 2018, FDA established a public docket to solicit public comment on a proposed framework for regulating software applications disseminated by or on behalf of drug sponsors for use with one or more of their prescription drug products. See *https://www.federalregister.gov/documents/2018/11/20/2018-25206/prescription-drug-use-related-software-establishment-of-a-public-docket-request-for-comments.*

the questionnaire programming works as expected. For the main study, we will then recruit 350 consumers who self-identify as having been diagnosed with diabetes and 350 primary care physicians who treat diabetes. Each participant will see one of five versions of a consumer web page for a fictitious prescription diabetes treatment, as reflected in table 1. They will answer a questionnaire designed to take no more than 20 minutes regarding their perception of the product's benefits, risks, and effect on adherence.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1] [2]

Activity	Number of respondents	Number of responses per respondent	Total annual respondents	Average burden per response	Total hours
Screener Consumers	680	1	680	.08 (5 minutes)	54.4
Screener Primary Care Physicians	680	1	680	.08 (5 minutes)	54.4
Pretest Consumers	50	1	50	.33 (20 minutes) ..	16.5
Pretest Primary Care Physicians	50	1	50	.33 (20 minutes) ..	16.5
Main Study Consumers	350	1	350	.33 (20 minutes) ..	115.5
Main Study Primary Care Physicians	350	1	350	.33 (20 minutes) ..	115.5
Total					372.8

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Burden estimates of less than 1 hour are expressed as a fraction of an hour in decimal format.

References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

*1. World Health Organization, ''Adherence to Long-Term Therapies: Evidence for Action,'' p. 3, 2003, available at *https://apps.who.int/iris/handle/10665/42682,* accessed May 16, 2022.

2. Frias, J., N. Virdi, P. Raja, et al., ''Effectiveness of Digital Medicines to Improve Clinical Outcomes in Patients with Uncontrolled Hypertension and Type 2 Diabetes: Prospective, Open-Label, Cluster-Randomized Pilot Clinical Trial,'' *Journal of Medical Internet Research,* vol. 19, Issue 7, Article e246, 2017, doi:10.2196/jmir.7833.

3. Kleinsinger, F., ''The Unmet Challenge of Medication Nonadherence,'' *The Permanente Journal,* vol. 22, Issue 3, Article 18–033, 2018, doi:10.7812/TPP/18–033.

4. Karumbi, J. and P. Garner, ''Directly Observed Therapy for Treating Tuberculosis,'' *Cochrane Database of Systematic Reviews,* Issue 5, Article CD003343, 2015, doi:10.1002/14651858.CD003343.pub4.

5. Dayer, L., S. Heldenbrand, P.O. Gubbins, et al., ''Smartphone Medication Adherence Apps: Potential Benefits to Patients and Providers,'' *Journal of the American Pharmacy Association (2003),* vol. 53, Issue 2, pp. 172–181, 2013, doi:10.1331/JAPhA.2013.12202.

*6. FDA, ''FDA Approves Pill with Sensor That Digitally Tracks If Patients Have Ingested Their Medication,'' FDA News Release, November 13, 2017, available at *https://www.fda.gov/news-events/press-announcements/fda-approves-pill-sensor-digitally-tracks-if-patients-have-ingested-their-medication,* accessed May 16, 2022.

7. Browne, S.H., Y. Behzadi, and G. Littlewort, ''Let Visuals Tell the Story: Medication Adherence in Patients with Type II Diabetes Captured by a Novel Ingestion Sensor Platform,'' *JMIR mHealth uHealth,* vol. 3, Issue 4, Article e108, 2015, doi:10.2196/mhealth.4292.

8. Eisenberger, U., R.P. Wüthrich, A. Bock, et al., ''Medication Adherence Assessment: High Accuracy of the New Ingestible Sensor System in Kidney Transplants,'' *Transplantation,* vol. 96, Issue 3, pp. 245–250, 2013, doi:10.1097/TP.0b013e31829b7571.

9. Chai, P.R., S. Carreiro, B.J. Innes, et al., ''Oxycodone Ingestion Patterns in Acute Fracture Pain with Digital Pills,'' *Anesthesia and Analgesia,* vol. 125, Issue 6, pp. 2105–2112, 2017, doi:10.1213/ANE.0000000000002574.

*10. Amgen Inc., ''Enbrel (etanercept): Highlights of Prescribing Information,'' revised April 2021, available at *https://www.pi.amgen.com/~/media/amgen/repositorysites/pi-amgen-com/enbrel/enbrel_pi.pdf,* accessed May 16, 2022.

*11. Reuter, E., '' 'Smart Pill' Startup EtectRx Strikes Partnership with Pear Therapeutics,'' *Med City News,* January 14, 2021, available at *https://medcitynews.com/2021/01/smart-pill-startup-etectrx-strikes-partnership-with-pear-therapeutics,* accessed May 16, 2022.

12. The Medical Futurist, ''The Present and Future of Digital Pills,'' July 21, 2020, available at *https://medicalfuturist.com/the-present-and-future-of-digital-pills,* accessed May 16, 2022.

13. George, C.E., ''Should a Psychiatrist Prescribe a Nanodrug to Help Parents Monitor a Teen's Adherence?,'' *AMA Journal of Ethics,* vol. 21, issue 4, article e317–323, 2019, doi:10.1001/amajethics.2019.317.

*14. Yang, M., ''A Psychiatrist's Perspective on the Digital Pill,'' *KevinMD.com,* December 2, 2017, available at *https://www.kevinmd.com/blog/2017/12/psychiatrists-perspective-digital-pill.html,* accessed May 16, 2022.

Dated: September 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20636 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–1894]

Agency Information Collection Activities; Proposed Collection; Comment Request; Yale-Mayo Clinic Centers of Excellence in Regulatory Science and Innovation B12 Pediatric Device Survey

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of

1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on ''Yale-Mayo Clinic Centers of Excellence in Regulatory Science and Innovation (CERSI) B12 Pediatric Device Survey.''

DATES: Either electronic or written comments on the collection of information must be submitted by November 22, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 22, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–1894 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Yale-Mayo Clinic Centers of Excellence in Regulatory Science and Innovation (CERSI) B12 Pediatric Device Survey.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Yale-Mayo Clinic Centers of Excellence in Regulatory Science and Innovation (CERSI) B12 Pediatric Device Survey

OMB Control Number NEW

Despite numerous legislative, regulatory, and scientific efforts, there has been little change in the number of devices approved for use in pediatric patients. This has often led to devices being adapted for use in children without an appropriate level of evidence, exposing them to inconsistent benefit risk profiles. This health inequity highlights the need for devices that are designed, evaluated, and labelled for pediatric patients. To address these challenges, this collection is being done to survey industry and

other key stakeholders in the medical device ecosystem to identify the barriers that prevent product developers from entering the pediatric device market as well as the proper incentives that would motivate them to innovate and sustain within this market.

This survey is a followup to the public meeting that FDA held in August 2018, entitled, ''Pediatric Medical Device Development.'' As mandated by section 502(d) of the FDA Reauthorization Act of 2017 (Pub. L. 115–52) the meeting was convened to address several topics, including consideration of ways to: (1) increase FDA assistance to medical device manufacturers in developing devices for pediatric populations that are approved or cleared, and labeled, for their use and (2) identify current barriers to pediatric device development and incentives to address such barriers.

Feedback from this meeting clarified the need to better understand factors influencing suboptimal engagement and participation by diverse innovators in the pediatric medical device space. Information garnered from this survey may help inform strategic plans to optimize existing programs for the needs of pediatric medical device innovators and develop new programs that will support sustained development in this space.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours [2]
Phone Survey	17	1	17	0.5 (30 minutes)	9
Online Survey	56	1	56	1	56
Total					65

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Rounded to the nearest hour.

The targeted groups for this collection of information include representatives from the medical device industry, academia, recipients of funding under section 305 of the Pediatric Medical Device Safety and Improvement Act of 2007 (Pub. L. 110–85; 42 U.S.C. 282 note), and trade organizations, medical provider organizations, organizations and individuals involved with financing and reimbursement associated with medical devices, pediatric healthcare leaders, clinicians who regularly use medical devices in caring for children, and organizations and individuals representing patients and consumers.

Phone survey: Respondents participating in the phone survey will be executives from companies either producing products in pediatrics or from companies that produce products that could be used in pediatrics. Executives will be invited to engage in the 30-minute phone survey.

Online survey: The 1-hour online survey will be administered to leaders within pediatric companies and key decision makers in the pediatric medical device industry (*e.g.,* venture capitalists, banking investors, leaders in children's hospitals and research networks, and pediatric patient advocates).

Dated: September 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20626 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0317]

Roy Tuccillo, Jr.: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Roy Tuccillo, Jr. for a period of 5 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Tuccillo was convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Tuccillo was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of July 15, 2022 (30 days after receipt of the notice), Mr. Tuccillo has not responded. His failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable September 23, 2022.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On November 9, 2021, Mr. Tuccillo was convicted as defined in section 306(*l*)(1)(A) of the FD&C Act, in the U.S. District Court for the Eastern District of New York, when the court accepted his plea of guilty and entered judgment against him for the offense of conspiracy to commit wire fraud in violation of 18 U.S.C. 371 and 1343.

FDA's finding that the debarment is appropriate is based on the felony conviction referenced herein. The factual basis for this conviction is as follows: As stated in the indictment, filed September 26, 2018, transcript of guilty pleas, filed December 26, 2019, and Magistrate Judge Steven Locke's report and recommendation, filed May

10, 2020, all from Mr. Tuccillo's case, Mr. Tuccillo was the manager of Anchor Foods, Inc. and Advanced Frozen Foods, Inc. (collectively, ''Anchor Foods''), responsible for the purchase, sale, shipment, and storage of food products, including octopus and squid, by both businesses. Both Anchor Foods companies were located in Westbury, New York.

From on or about February 2011 and continuing through January 2014, Mr. Tuccillo knowingly and willfully conspired with Anchor Foods, Roy Tuccillo, Sr., and others to import giant squid from Peru to Mr. Tuccillo's companies' location in Westbury, New York, and repackage and sell that squid falsely labeled and identified as ''octopus.'' Mr. Tuccillo sold the falsely labeled squid in interstate commerce to grocery stores in New Jersey, Texas, and Massachusetts. Mr. Tuccillo used email and fax to sell and receive payments for the squid falsely labeled as octopus. In total, Anchor Foods made $1,128,388.50 worth of fraudulent sales of squid.

As a result of this conviction, FDA sent Mr. Tuccillo, by certified mail on June 6, 2022, a notice proposing to debar him for a period of 5 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act that Mr. Tuccillo's felony conviction of Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. 371 and 1343, constitutes conduct relating to the importation into the United States of an article of food because Mr. Tuccillo knowingly and willfully conspired with Anchor Foods, Roy Tuccillo, Sr., and others to import giant squid from Peru to his companies' location in Westbury, New York, and repackage and sell that squid falsely labeled and identified as ''octopus'' in interstate commerce, using email and fax to sell and receive payments for the falsely labeled squid. The proposal was also based on a determination, after consideration of the relevant factors set forth in section 306(c)(3) of the FD&C Act, that Mr. Tuccillo should be subject to a 5-year period of debarment. The proposal also offered Mr. Tuccillo an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Tuccillo failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(1)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Tuccillo has been convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food and that he is subject to a 5-year period of debarment.

As a result of the foregoing finding, Mr. Tuccillo is debarred for a period of 5 years from importing articles of food or offering such articles for import into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Roy Tuccillo, Jr., is a prohibited act.

Any application by Mr. Tuccillo for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2022–N–0317 and sent to the Dockets Management Staff (**ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: September 20, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20709 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0316]

Roy Tuccillo, Sr.: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Roy Tuccillo, Sr. for a period of 5 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Tuccillo was convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Tuccillo was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of July 17, 2022 (30 days after receipt of the notice), Mr. Tuccillo has not responded. Mr. Tuccillo's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable September 23, 2022.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On November 9, 2021, Mr. Tuccillo was convicted as defined in section 306(*l*)(1)(A) of the FD&C Act, in the U.S. District Court for the Eastern District of New York, when the court accepted his plea of guilty and entered judgment against him for the offense of conspiracy to commit wire fraud in violation of 18 U.S.C. 371 and 1343.

FDA's finding that the debarment is appropriate is based on the felony conviction referenced herein. The factual basis for this conviction is as follows: as stated in the indictment, filed September 26, 2018, transcript of guilty pleas, filed December 26, 2019, and Magistrate Judge Steven Locke's report and recommendation, filed May 10, 2020, all from Mr. Tuccillo's case, Mr. Tuccillo was the owner, president, and chief operating officer of Anchor Foods, Inc. and Advanced Frozen Foods, Inc. (collectively, ''Anchor Foods''), and had overall responsibility

for the operation of both businesses and their employees. Both Anchor Foods companies were located in Westbury, New York.

From on or about February 2011 and continuing through January 2014, Mr. Tuccillo knowingly and willfully conspired with Anchor Foods, Roy Tuccillo, Jr., and others to import giant squid from Peru to Mr. Tuccillo's companies' location in Westbury, New York and repackage and sell that squid falsely labeled and identified as ''octopus.'' Mr. Tuccillo sold the falsely labeled squid in interstate commerce to grocery stores in New Jersey, Texas, and Massachusetts. Mr. Tuccillo used email and fax to sell and receive payments for the squid falsely labeled as octopus. In total, Mr. Tuccillo's companies made $1,128,388.50 worth of fraudulent sales of squid.

As a result of this conviction, FDA sent Mr. Tuccillo, by certified mail on June 6, 2022, a notice proposing to debar him for a period of 5 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act that Mr. Tuccillo's felony conviction of conspiracy to commit wire fraud in violation of 18 U.S.C. 371 and 1343, constitutes conduct relating to the importation into the United States of an article of food because Mr. Tuccillo knowingly and willfully conspired with Anchor Foods, Roy Tuccillo, Jr., and others to import giant squid from Peru to his companies' location in Westbury, New York and repackage and sell that squid falsely labeled and identified as ''octopus'' in interstate commerce, using email and fax to sell and receive payments for the falsely labeled squid. The proposal was also based on a determination, after consideration of the relevant factors set forth in section 306(c)(3) of the FD&C Act (21 U.S.C. 335a(c)(3)), that Mr. Tuccillo should be subject to a 5-year period of debarment. The proposal also offered Mr. Tuccillo an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Tuccillo failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(1)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Tuccillo has been convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food and that he is subject to a 5-year period of debarment.

As a result of the foregoing finding, Mr. Tuccillo is debarred for a period of 5 years from importing articles of food or offering such articles for import into the United States, applicable (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Roy Tuccillo, Sr., is a prohibited act.

Any application by Mr. Tuccillo for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2022–N–0316 and sent to the Dockets Management Staff (**ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: September 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20710 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–1050]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Targeted Mechanism of Action Presentations in Prescription Drug Promotion

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by October 24, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://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. The title of this information collection is ''Targeted Mechanism of Action Presentations in Prescription Drug Promotion.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

For copies of the questionnaire: Office of Prescription Drug Promotion (OPDP) Research Team, *DTCresearch@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Targeted Mechanism of Action Presentations in Prescription Drug Promotion

OMB Control Number 0910—NEW

I. Background

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA-regulated products in carrying out the provisions of the FD&C Act.

The Office of Prescription Drug Promotion's (OPDP) mission is to protect the public health by helping to ensure that prescription drug promotion is truthful, balanced, and accurately communicated. OPDP's research program provides scientific evidence to help ensure that our policies related to prescription drug promotion will have the greatest benefit to public health. Toward that end, we have consistently conducted research to evaluate the aspects of prescription drug promotion that are most central to our mission. Our research focuses in particular on three main topic areas: advertising features, including content and format; target

populations; and research quality. Through the evaluation of advertising features, we assess how elements such as graphics, format, and disease and product characteristics impact the communication and understanding of prescription drug risks and benefits. Focusing on target populations allows us to evaluate how understanding of prescription drug risks and benefits may vary as a function of audience, and our focus on research quality aims at maximizing the quality of research data through analytical methodology development and investigation of sampling and response issues. This study will inform the first two topic areas, advertising features and target populations.

Because we recognize the strength of data and the confidence in the robust nature of the findings are improved through the results of multiple converging studies, we continue to develop evidence to inform our thinking. We evaluate the results from our studies within the broader context of research and findings from other sources, and this larger body of knowledge collectively informs our policies as well as our research program. Our research is documented on our home page, which can be found at: *https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/office-prescription-drug-promotion-opdp-research.* The website includes links to the latest **Federal Register** notices and peer-reviewed publications produced by our office.

In 2014, OPDP conducted focus groups designed to provide insights on how consumers and healthcare providers (HCPs), including physicians, nurse practitioners, and physician assistants, interpret the term ''targeted'' in prescription drug promotional materials. Although diverse views were voiced, there appeared to be some tendency toward the impression that products with promotional materials using this term would be safer and more effective than other similar treatments. OPDP is also now conducting a nationally representative survey regarding the ways in which consumers and primary care physicians (PCPs) interpret terms and phrases commonly used in prescription drug promotional materials, including assessment of impressions of the terms ''targeted'' and ''targeted mechanism of action'' (targeted MoA) (86 FR 24867, May 10, 2021). Building upon this line of research, the proposed study will investigate the influence of targeted MoA claims, graphics, and disclosures that provide context about a drug's targeted MoA, utilizing an experimental design with both consumer and HCP samples. The experimental approach described here is intended to complement and augment the prior research by facilitating assessment of causality. Specifically, the proposed study will explore how varied targeted MoA presentations affect consumer and HCP understanding of the MoA of a drug, perception of drug benefits and risks, attention to risk information, and interest in the drug.

Table 1 depicts the study design. Participants will be randomly assigned to one of 12 experimental conditions in which the presence versus absence of: (1) a targeted MoA claim, (2) a graphic depicting a targeted MoA, and (3) a disclosure that provides context about the targeted MoA of the drug are varied in a branded website for a fictitious prescription drug indicated to treat bladder cancer and cancers of the urinary tract (renal pelvis, ureter, or urethra) that have spread or cannot be removed by surgery. We selected cancer as the medical condition for study given the prevalence of targeted MoA presentations in promotional materials for prescription drugs indicated to treat various forms of cancer. Notably, there will be three variations related to the targeted MoA graphic: (1) no graphic, (2) an inaccurate graphic (graphic 1) showing only the effect of the drug on cancerous cells but not on healthy cells, and (3) an accurate graphic (graphic 2) that will show the effect of the drug on both cancerous and healthy cells. The design will be replicated in both the consumer and HCP samples with stimuli specifically created for each audience. Draft stimuli were informed by, but not identical to, actual targeted MoA presentations from a marketplace evaluation conducted under FDA guidance. Draft stimuli were also informed by an FDA subject matter expert's review. Following exposure to the stimuli, the participants will complete a questionnaire designed to assess relevant outcome measures. A copy of the questionnaire is available upon request. All aspects of this study will be completed online. Participation is estimated to take approximately 20 minutes, excluding the screener's time.

TABLE 1—STUDY DESIGN

Sample	Disclosure	Targeted MoA claim	Targeted MoA graphic		
			Present (graphic 1—inaccurate)	Present (graphic 2—accurate)	Absent
HCP	Present	Present	[1] ■	■	■
		Absent	■	■	■
	Absent	Present	■	■	■
		Absent	■	■	■
Consumer	Present	Present	■	■	■
		Absent	■	■	■
	Absent	Present	■	■	■
		Absent	■	■	■

[1] Each ■ symbol represents an experimental condition.

For the HCP sample, we will recruit oncologists, PCPs with oncology experience, and nurse practitioners and physician assistants who specialize in oncology. We will also recruit a general population sample of adult volunteers 18 years or older for the consumer sample. A general population, rather than a diagnosed consumer sample, was selected because of concerns about being able to recruit enough participants for this particular study if we selected a cancer-specific sample.

We will ask consumers to consider a hypothetical scenario in which they have recently been diagnosed with cancer and are actively looking for available treatments. HCPs will be asked to consider a scenario in which they are actively looking for available treatments for a patient who has been diagnosed with cancer. We will also ask consumers if they have ever been diagnosed with cancer. HCP participants will be drawn

from online HCP panels, and general population consumer participants will be drawn from online consumer panels. Informed by power analyses, we will recruit a sample of 540 HCPs and 540 consumers for the main study.

In the **Federal Register** of October 28, 2021 (86 FR 59736), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received five comments that were Paperwork Reduction Act (PRA) related. Within the submissions, FDA received multiple comments that the Agency has addressed in this notice. For brevity, some public comments are paraphrased and, therefore, may not state the exact language used by the commenter. All comments were considered even if they were not fully captured by our paraphrasing in this document. One submission (ID number FDA–2021–N–1050–0002) was read and considered but was outside the scope of the research and is not addressed further. Comments and responses are numbered here for organizational purposes only.

(Comment 1) One comment stated that FDA has already investigated how HCPs and consumers interpret the terms ''targeted'' and ''targeted mechanism of action.''

(Response 1) Prior qualitative research [1] looked at how consumers and HCPs interpret the term ''targeted'' in prescription drug promotional materials. This initial qualitative research suggested that products using the term ''targeted'' may appear safer or more effective than other similar treatments but did not fully explore the implications of those interpretations. Robust empirical evidence is needed to understand how complex concepts, such as ''targeted'' and ''targeted MoA,'' are interpreted or whether they lead to inaccurate inferences about a drug's efficacy and side effects when presented to consumers and HCPs in prescription drug promotion. The present research seeks to extend previous studies by investigating the effects of including a graphic and by exploring whether the inclusion of a disclosure statement can help to clarify the information. It is possible that the presence of targeted MoA graphics affects the impressions of the product, which we are assessing in this study. It is also possible that any inflated perceptions consumers or HCPs may have based on the MoA claim or graphics can be adjusted by adding a disclosure. These are the questions this research is aiming to address through an experimental design. We conducted a literature review, which found that only two published articles (Refs. 1 and 2) have focused on assessing the impact of exposure to MoA presentations in prescription drug promotion. We also conducted a marketplace evaluation, which found that these types of presentations are widespread in the prescription drug promotion marketplace. Together, this preliminary work highlights the importance of this study and the need for experimental research that examines the effect of targeted MoA presentations in prescription drug promotion on both consumers and HCPs.

(Comment 2) Two comments proposed recruiting cancer patients rather than general population consumers because, according to one comment, cancer patients are more likely to be exposed to promotional materials regarding cancer products and may be more familiar with cancer-related terms than the general population. The comments also suggested that being diagnosed with a life-threatening illness may influence perception of risk/benefit and interest in a drug. One comment encouraged the Agency to look for ways to mitigate such bias, and the other specifically proposed that the Agency focus the research on a target consumer respondent sample of those who have had a cancer diagnosis and allow the screening criteria to straddle across multiple cancer diagnoses.

(Response 2) We chose a general population sample because of concerns about being able to recruit enough participants if we selected a cancer-specific sample. However, we agree that in a future study, a small, carefully designed replication study with cancer patients could be valuable. We will also ask participants if they have been diagnosed with cancer and control for any impact that a diagnosis of prior cancer may have.

(Comment 3) One comment objected that access to the specific study stimuli and questionnaire was not provided.

(Response 3) We have described the purpose of the study, the design, and the population of interest and have provided the questionnaire to numerous individuals upon request. We provided the disclosure language in the questionnaire. Our full stimuli are under development during the PRA process. We do not make draft stimuli public during this time because of concerns that this may contaminate our participant pool and compromise our research.

(Comment 4) Two comments suggested that the research assumes that all targeted MoA claims that do not include a discussion of off-target effects are misleading and that it is misleading to suggest that targeted therapies are safer or more effective. The comments noted that this assumption would be overly broad and simplified and may result in biased results.

(Response 4) This research does not assume that any specific presentation is or is not misleading. Rather, this research aims to understand whether variations in MoA presentations of a targeted drug (*e.g.,* presenting an inaccurate graphic depicting a drug's MoA without a disclosure relative to an accurate graphic depicting the MoA) may affect consumer and HCP perceptions of the drug. In this way, the research will provide more information to help determine whether these audiences are misled by the tested presentations.

(Comment 5) Two comments focused on the proposed graphics. One expressed concern about the ability of a graphic to depict a targeted MoA accurately (particularly as it refers to the impact on off-target healthy cells) and to convey a truthful and non-misleading representation. The other comment proposed changes to the inaccurate graphic in terms of how it depicted healthy and cancer cells.

(Response 5) We tested candidate graphics in cognitive interviews to confirm that the audience interpreted the graphics as intended. The graphics were also reviewed by medical professionals, and we consulted with a doctoral-trained researcher who publishes extensively on the effects of graphic presentations in health communication and advertising.

(Comment 6) One comment noted that it is unclear what proportion of the sample will be oncologists versus PCPs with oncology experience. The comment also stated that while PCPs may have a role in the cancer patient's journey and may provide input along the way to diagnosis, as well as during the management phase of treatment, they are not routine decision makers for new treatments or treatment changes.

(Response 6) HCPs of all types are exposed to prescription drug promotion. Depending on location (*e.g.,* rural areas) and type of clinical setting, some non-oncologists may consider oncologic prescription drugs to treat their patients. We agree that oncologists are the most relevant population to study in this research. However, we also want to know whether specific education and experience influence the processing of claims, graphics, and disclosures. We

[1] See ''Focus Groups to Investigate Specific Terminology in Prescription Drug Promotion (completed in 2014),'' available at *https://www.fda.gov/aboutfda/centersoffices/officeofmedicalproductsandtobacco/cder/ucm090276.htm.*

intend to use PCPs as a control group to understand whether specific advanced training influences the understanding of MoA claims, graphics, and associated disclosures. Further, including PCPs with oncology experience alongside oncologists has yielded useful data in prior studies (Ref. 3). The sample will be equally distributed across oncologists, PCPs with oncology experience, and nurse practitioners and physician assistants with oncology experience.

(Comment 7) One comment stated that the study should only recruit nurse practitioners and physician assistants who specialize in oncology.

(Response 7) We agree. Only nurse practitioners and physician assistants who specialize in oncology are eligible for the study.

(Comment 8) One comment noted that the instructions at the top of the questionnaire ask participants to ''make your best guess'' based on the web page they just viewed. The comment stated that respondents should not be asked to guess as their response and argued that these instructions undermine the importance of the participants' answers.

(Response 8) The instructions are displayed before perceived efficacy and risk questions where consumer participants are told, ''Most people don't know how a prescription drug will affect them until they've taken the drug. But we'd like you to make your best guess based on the web page you just saw. Please answer the following questions based on what you saw on the web page.'' HCPs are told, ''Please answer the following questions based on what you saw on the web page rather than prior knowledge of this class of medications.''

These instructions have been cognitively tested in prior studies, as well as in the present study, and we found no evidence that these instructions undermined the perceived importance of participants' answers. Instead, the instructions helped to indicate that we wanted participants to form an opinion and that they did not need to base their opinion on prior knowledge to do so.

(Comment 9) One comment suggested that the recall questions (questions 6 through 11) and especially the ''foil'' responses could bias the responses to the questions that follow them and recommended locating the recall questions after other questions.

(Response 9) We always approach question ordering carefully, attempting to balance several considerations, including the reduction of bias from one question to another, the flow, and the importance of each item. In this case, we are prioritizing measures of specific claim comprehension over other more general questions in our questionnaire, which is why questions 6 through 11 are placed earlier in the questionnaire. Answering recall and comprehension questions first will allow consumers and HCPs to provide a more accurate response and will allow us to better understand whether the information was comprehended. We did not encounter any issues with recall questions influencing responses to questions found later in the survey during cognitive interviews.

(Comment 10) One comment recommended using a consistent scale throughout the survey. Another suggested changing questions 12, 13, 14, 16, 17, 18, 19, 20, 22, and 23 to 7-point scales to add a midpoint.

(Response 10) We use true/false/don't know or yes/no/don't know response options for the comprehension questions and Likert-type scales for perceptions and opinion questions. Using one scale throughout the survey would not necessarily provide better data. For nearly all Likert-type questions, we use 6-point scales with the endpoints labeled. Some of these questions with Likert-type scales are validated questions; for these, we have maintained the response options from the validated measures. Other questions were altered from validated measures, and similarly, we preferred to maintain the Likert-type scales that the original measure had. We will change question 5 from a 7-point to a 6-point scale to increase consistency. We will retain the 5-point scales with all response options labeled for the two validated scales for beliefs about medications and trust in prescription drug materials.

Regarding the inclusion of a midpoint, this is a matter of debate in the literature and has never been resolved. Based on input from cognitive interviews and in response to public comments, we will be adding a neutral point to the comparative efficacy and risk questions (*i.e.,* questions 17 through 23), which will change these questions to be 7-point response options with endpoints and midpoint labeled.

(Comment 11) Two comments stated that the 6-point scales do not allow the respondent to pick neither agree/disagree/unknown. One comment noted that this is a concern for most 6-point scale questions but particularly for questions 17 through 23, which compare the study drug to other medications. The comments recommended either an anchored neutral middle point on the scale or a box for uncertain/do not know responses.

(Response 11) There are benefits and drawbacks to including a neutral or ''no reaction'' response in survey research, and the decision to use a neutral midpoint depends on the goal of the measures (Refs. 4 and 5). For questions assessing comprehension of the MoA claim, we included a ''do not know'' option as this response would indicate some level of uncertainty about the MoA, and that uncertainty itself would be meaningful and actionable information. However, when assessing perceptions and attitudes about the claim, graphic, or disclosure, our objective is to force a selection. Inclusion of a neutral response option in these instances could potentially encourage satisficing—cuing participants to select a neutral response when there is uncertainty (Ref. 7). For the comparative risk and efficacy questions (questions 17 through 23), we will include a midpoint based on results from cognitive interviews; however, these interviews did not point to the need to include a midpoint for the other questions.

(Comment 12) Questions 17 through 23 ask about the efficacy and risks of the study drug compared to other prescription drugs for the same indication. One comment contended that, without prior knowledge of the efficacy and risks of the prescription drugs on the market, it would be difficult for respondents to make a fully informed conclusion. Another comment asserted that the comparative risk and efficacy questions should be revised to establish a clear comparator, such as chemotherapy. Finally, a comment recommended removing these questions as consumers should not be assessing a drug's safety or efficacy compared to other drugs.

(Response 12) There are instances in the clinical setting when consumers will discuss the safety and risk information of a drug compared to others (*e.g.,* if a patient switches from one drug to another or if a family member asks the consumer to talk to their doctor about another drug). We acknowledge that in a clinical setting, patients and HCPs may use additional information to make decisions about how a drug compares to another. However, the intent of questions 17 through 23 is to understand whether exposure to different presentations of the MoA claim, graphics, and disclosure results in different comprehension or perceptions, such as perception of comparative risks and efficacy. Except for the varied presentations, all participants will have the same level of information regarding the MoA of the drug. So, we would expect that all

participants would be equally informed of the drug, and differences among study conditions could be attributed to the experimental manipulations. Additionally, any subjective experiences outside the experiment setting should be evenly distributed across study conditions as a function of random assignment; therefore, they should not have any impact on the outcomes of the study. Still, cognitive interviews indicated that HCPs and consumers preferred that a midpoint be added to the response scale for these questions, which we added in the revised questionnaire. Based on cognitive interviews, we also revised the questions to include the phrase ''compared to other similar prescription drugs that are for/treat bladder cancer.'' We will also review these questions and make any necessary adjustments based on pre-testing results.

(Comment 13) One comment stated that the questionnaire does not consider the HCP respondents' baseline understanding or expectations of targeted treatments.

(Response 13) We expect that any knowledge or expectations of targeted treatments that consumers and HCPs already have outside of the experiment setting should be evenly distributed across study conditions as a function of random assignment; therefore, observed differences between conditions are unlikely to be caused by these individual differences. However, we added an item that assesses HCPs' knowledge of targeted therapies for cancer treatments.

(Comment 14) One comment encouraged FDA to disseminate all final results of completed research related to this topic.

(Response 14) FDA's research is documented on our homepage, which can be found at *https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/office-prescription-drug-promotion-opdp-research*. The website includes links to the latest **Federal Register** notices and peer-reviewed publications produced by our office. The Agency also anticipates disseminating the results of this study after the final analyses of the data are completed. The exact timing and nature of any such dissemination has not been determined, but dissemination of research results often occurs through presentations at trade and academic conferences, publications, articles, and postings on FDA's website.

(Comment 15) One comment recommended that certain populations, such as those who work in pharmaceutical marketing or for the U.S. Department of Health and Human Services (HHS), be excluded from the study.

(Response 15) We agree. Participants will be excluded from participation if they work for a pharmaceutical, advertising, or market research company or are employed by HHS.

(Comment 16) One comment recommended that participants who are unable to recall key elements of the stimuli, such as indication, risk elements, presence of claim, and presence of disclaimers, be excluded from the study because they are not able to appropriately assess the MoA presentations.

(Response 16) The fact that a consumer or HCP is not able to recall certain information does not mean they did not see that information or subconsciously process it (Ref. 6). Therefore, we do not plan to exclude anyone based on their self-reported recall of elements in the stimuli.

(Comment 17) One comment suggested that participants should be asked questions 30 through 34 as part of a pre-test and be stratified based on their responses.

(Response 17) Typically, stratified randomization is used if there are prognostic variables that correlate with outcome measures and researchers are concerned about such factors not being evenly distributed across groups (Ref. 8). We have no reason to expect that the aforementioned factors would have a strong association with the outcome measures, nor do we have reason to believe that we will not achieve adequate balance of prognostic variables given the large sample size proposed for this study (Ref. 8). Random assignment will help to produce groups that are, on average, probabilistically similar to each other. Because randomization eliminates most other sources of systematic variation, we can be reasonably confident that any effect that is found is the result of the intervention and not some preexisting differences between the groups (Ref. 9). However, we have included questions 30 through 34 to assess the association of factors such as health literacy, prior cancer diagnosis, or familiarity with cancer treatment options with our outcomes and statistically control for those variables if necessary.

(Comment 18) One comment suggested that in order to ensure that differences in risk assessment across stimuli are due to the manipulation of MoA information, the prominence of the risk presentation should be standardized across the 12 versions of the stimuli and displayed in accordance with FDA's guidance document entitled ''Presenting Risk Information in Prescription Drug and Medical Device Promotion.'' [2] The comment also encouraged the use of qualifiers to delineate which side effects are considered serious.

(Response 18) In creating the stimuli, we created one web page that was the basis for all the stimuli. The risk presentation was standardized across the experimental conditions, and we kept FDA's guidance in mind when displaying stimuli. Regarding the suggested use of qualifiers to delineate which side effects are considered ''serious,'' we again note that we kept FDA's guidance in mind with respect to the risk presentation.

(Comment 19) One comment noted that the disclosure for patients should be reworded as follows to prevent implied bias: ''[Drug X] delivers medicine directly to cancer cells and can also harm healthy cells.''

(Response 19) We revised the statement to read ''[Drug X] could also affect healthy cells.'' With this change, the consumer disclosure is consistent with the content of the disclosure shown to HCPs.

(Comment 20) One comment asserted that most promotional materials in the real world qualify MoA statements with language mirroring the labeling (*e.g.,* ''Pre-clinical studies demonstrate . . .'') and recommended that the research materials be updated to include similar qualifying language.

(Response 20) The addition of such language may create an imbalance of information across the various experimental conditions and could confound interpretation of the results. As such, we did not include the qualifying language mentioned above.

(Comment 21) One comment suggested that study participants should be allowed to refer back to the product website as often as needed rather than only being permitted to view it once.

(Response 21) As a practice, we often purposely do not permit study participants to refer back to the product website as often as needed for these types of studies. Rather, for this study, we will instruct participants to read the website carefully and alert them that they will be answering several questions about the content that they just saw and that they cannot return to the website. The goal of this study is not to assess participants' comprehension of verbatim information in the stimuli, for which

[2] The draft guidance for industry ''Presenting Risk Information in Prescription Drug and Medical Device Promotion'' (May 2009) is available on the FDA guidance web page at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* When finalized this guidance will represent FDA's thinking on this issue.

repeated exposures to stimuli may be more appropriate in another study. Rather, the present study is interested in gist understanding of the information. Allowing for multiple exposures to the stimuli could potentially influence study outcomes and confound interpretation of the study results. A large literature supports presence of a ''mere exposure effect'' in social science research, where more exposure enhances processing and increases positive affect toward stimuli (Refs. 10 and 11).

(Comment 22) One comment recommended removing question 16 (*i.e.,* risk-benefit tradeoff) for consumers because consumers may not have the experience or background to assess a drug's benefit-risk profile. The comment also suggested that this question ignores the role of prescribers in informing patients of the relevant risks and benefits of prescription medications.

(Response 22) We disagree that consumers do not form their own perceptions about risk-benefit tradeoffs after seeing direct-to-consumer (DTC) promotional materials and before any discussion with an HCP. Consumers often wish to participate in shared decision making with HCPs when selecting prescription drugs and may request specific prescription drugs from their HCPs based on promotions they have seen in the marketplace. Because the information consumers receive through DTC prescription drug promotion can impact these requests, it is important to investigate how the information in prescription drug promotional pieces impacts consumer attention, understanding, and perceptions. In addition, the purpose of these questions is to assess perceived benefit and risk based on the promotional material shown. The question includes instructions indicating that judgments should be reached based on the information on the prescription drug website. As such, we plan to ask participants about their perceptions of the risk-benefit tradeoff using question 16, which is a common and validated item in DTC research.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents [2]	Number of responses per respondent	Total annual responses	Average burden per response [3]	Total hours
Pretest:					
General population: pretest screener completes (assumes 75% eligible).	528	1	528	0.08 (5 min.)	42.2
General population: number of completes, pretest	396	1	396	0.33 (20 min.)	130.7
HCP: pretest screener completes (assumes 60% eligible).	660	1	660	0.08 (5 min.)	52.8
HCP: number of completes, pretest	396	1	396	0.33 (20 min.)	130.7
Main Study:					
General population: number of main study screener completes (assumes 75% eligible).	792	1	792	0.08 (5 min.)	63.4
General population: number of completes, main study	594	1	594	0.33 (20 min.)	196.0
HCP: number of main study screener completes (assumes 60% eligible).	990	1	990	0.08 (5 min.)	79.2
HCP: number of completes, main study	594	1	594	0.33 (20 min.)	196.0
Total	.....	.....	.....	.....	891

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] As with most online and mail surveys, it is always possible that some participants are in the process of completing the survey when the target number is reached and that those surveys will be completed and received before the survey is closed out. To account for this, we have estimated approximately 10 percent overage for both samples in the study.

[3] Burden estimates of less than 1 hour are expressed as a fraction of an hour in decimal format.

II. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. O'Donoghue, A.C., Williams, P.A., Sullivan, H.W., et al. ''Effects of Comparative Claims in Prescription Drug Direct-to-Consumer Advertising on Consumer Perceptions and Recall.'' *Social Science & Medicine,* 120:1–11, 2014.

*2. Sullivan, H.W., O'Donoghue, A.C., Gard Read, J., et al. ''Testimonials and Informational Videos on Branded Prescription Drug websites: Experimental Study to Assess Influence on Consumer Knowledge and Perceptions.'' *Journal of Medical internet Research,* 20(1):e13, 2018.

3. Boudewyns, V., O'Donoghue, A.C., Paquin, R.S., et al. ''Physician Interpretation of Data of Uncertain Clinical Utility in Oncology Prescription Drug Promotion.'' *The Oncologist,* 26(12):1071–1078, 2021.

4. Moors, G. ''Exploring the Effect of a Middle Response Category on Response Style in Attitude Measurement.'' *Quality & Quantity,* 42(6):779–794, 2008.

5. Sturgis, P., Roberts, C., and Smith, P. ''Middle Alternatives Revisited: How the Neither/nor Response Acts as a Way of Saying 'I Don't Know?''' *Sociological Methods & Research,* 43(1):15–38, 2014.

6. Shapiro, S. and Krishnan, H.S. ''Memory-Based Measures for Assessing Advertising Effects: A Comparison of Explicit and Implicit Memory Effects.'' *Journal of Advertising,* 30(3):1–13, 2001.

7. Krosnick, J.A. ''Questionnaire Design.'' In: Vannette, D., Krosnick, J. (eds). *The Palgrave Handbook of Survey Research* (pp. 439–455). Palgrave Macmillan, Cham, 2018.

8. Friedman, L.M., Furberg, C.D., DeMets, D.L., et al. *Fundamentals of Clinical Trials.* 5th ed. New York, NY: Spring Science-Business Media, 1998.

9. Fisher, R.A. *The Design of Experiments.* Edinburgh, United Kingdom: Oliver & Boyd, 1935.

10. Bornstein, R.F. ''Exposure and Affect: Overview and Meta-analysis of Research, 1968–1987.'' *Psychological Bulletin,* 106(2):265–289, 1989.

11. Bornstein, R.F. and D'Agostino, P.R. ''The Attribution and Discounting of Perceptual Fluency: Preliminary Tests of a Perceptual Fluency/Attributional Model of the Mere Exposure Effect.'' *Social Cognition,* 12(2):103–128, 1994.

Dated: September 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20623 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–E–2364 and FDA–2020–E–2365]

Determination of Regulatory Review Period for Purposes of Patent Extension; NURTEC ODT

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for NURTEC ODT and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by November 22, 2022. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 22, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 22, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2020–E–2364 and FDA–2020–E–2365 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; NURTEC ODT.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket numbers, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, NURTEC ODT (rimegepant sulfate). NURTEC ODT is indicated for the acute treatment of migraine with or without aura in adults. Subsequent to this approval, the USPTO received a patent term restoration application for NURTEC ODT (U.S. Patent Nos. 8,314,117 and 8,759,372) from Biohaven Pharmaceutical Holding Company Ltd. and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated March 1, 2021, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of NURTEC ODT represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for NURTEC ODT is 3,390 days. Of this time, 3,144 days occurred during the testing phase of the regulatory review period, while 246 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* November 18, 2010. The applicant claims November 20, 2010, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 18, 2010, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* June 27, 2019. FDA has verified the applicant's claim that the new drug application (NDA) for NURTEC ODT (NDA 212728) was initially submitted on June 27, 2019.

3. *The date the application was approved:* February 27, 2020. FDA has verified the applicant's claim that NDA 212728 was approved on February 27, 2020.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 368 days or 1,102 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: September 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20634 Filed 9–22–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Neuroscience and Behavior Study Section.

Date: November 1, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, MSC 6902, Bethesda, MD 20892, 301–443–0800, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: September 19, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20561 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Translational Immuno-oncology.
Date: October 17–18, 2022.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Maria Elena Cardenas-Corona, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–867–5309, *maria.cardenas-corona@nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group, Social Sciences and Population Studies, A Study Section.
Date: October 18–19, 2022.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin Washington, DC City Center, 1400 M Street NW, Washington, DC 20005.
Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroplasticity and Neurotransmitters Study Section.
Date: October 20–21, 2022.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate Hotel, 2650 Virginia Avenue NW, Washington, DC 20037.
Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Clinical Integrative Cardiovascular and Hematological Sciences Study Section.
Date: October 20–21, 2022.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Garden Inn Washington DC/Georgetown, 2201 M Street NW, Washington, DC 20037.
Contact Person: Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301) 435–1743, *margaret.chandler@nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.
Date: October 20–21, 2022.
Time: 8:30 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Place Hotel, 2121 M Street NW, Washington, DC 20037.
Contact Person: Salma Asmat Quraishi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0592, *salma.quraishi@nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group Social Sciences and Population Studies B Study Section.
Date: October 20–21, 2022.
Time: 10:30 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: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Societal and Ethical Issues in Research.
Date: October 20, 2022.
Time: 12:30 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Aubrey Spriggs Madkour, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000C, Bethesda, MD 20892, (301) 594–6891, *madkouras@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Promotion in Communities Study Section.
Date: October 24–25, 2022.
Time: 9:00 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: Helena Eryam Dagadu, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3137, Bethesda, MD 20892, (301) 435–1266, *dagaduhe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Research on Current Topics in Alzheimer's Disease and its Related Dementias.
Date: October 25–26, 2022.
Time: 9:00 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: Mei Qin, Ph.D., MD Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–875–2215, *qinmei@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.
Date: October 25–26, 2022.
Time: 9:30 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Srikanth Ranganathan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7802, Bethesda, MD 20892, (301) 435–1787, *srikanth.ranganathan@nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics Study Section.
Date: October 25–26, 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: Altaf Ahmad Dar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–2680, *altaf.dar@nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Maximizing Investigators' Research Award C Study Section.
Date: October 25–26, 2022.
Time: 10:00 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: Jimok Kim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8559, *jimok.kim@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Data Management and Analysis.

Date: October 25, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael J McQuestion, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, Bethesda, MD 20892, 301–480–1276, *mike.mcquestion@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 20, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20656 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Non-Pharmacological Clinical Trials.

Date: October 19, 2022.

Time: 11:00 a.m. to 5:00 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: Regina Dolan-Sewell, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center 6001 Executive Blvd., Room 4154, MSC 9606, Bethesda, MD 20852, *regina.dolan-sewell@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: September 20, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20669 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Maximizing Opportunities for Scientific and Academic Independent Careers (MOSAIC) Postdoctoral Career Transition Award to Promote Diversity (K99/R00).

Date: November 16, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rebecca H. Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18C, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov*.

Information is also available on the Institute's/Center's home page: *www.nigms.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 19, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20556 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Frederick National Laboratory Advisory Committee to the National Cancer Institute.

The meeting will be held virtually 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: Frederick National Laboratory Advisory Committee to the National Cancer Institute.

Date: October 12, 2022.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: Ongoing and new activities at the Frederick National Laboratory for Cancer Research.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Wlodek Lopaczynski, M.D., Ph.D., Assistant Director, Office of the Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Seventh Floor, West Tower, Room 7W514, Bethesda, MD 20892, (240) 276–6458, *lopacw@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: FNLAC: *https://deainfo.nci.nih.gov/advisory/fac/fac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction;

93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 20, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20668 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Advancing Diversity in Aging Research and Clinical Trials.

Date: October 6, 2022.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Carmen Moten, Ph.D. MPH, Scientific Review Officer, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7703, *cmoten@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 19, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20554 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Interagency Autism Coordinating Committee.

The purpose of the IACC meeting is to discuss business, agency updates, and issues related to autism spectrum disorder (ASD) research and services activities. 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 at least seven (7) business days in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocast website (*http://videocast.nih.gov/*).

Name of Committee: Interagency Autism Coordinating Committee.

Date: October 26, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To discuss business, updates, and issues related to ASD research and services activities.

Cost: The meeting is free and open to the public.

Registration: A registration web link will be posted on the IACC website (*www.iacc.hhs.gov*) prior to the meeting. Pre-registration is recommended.

Deadlines: Written/Virtual Public Comment Due Date: Friday, October 14, 2022, by 5:00 p.m. ET, Public Comment Guidelines, For public comment instructions, see below.

Contact Person: Ms. Rebecca Martin, Office of Autism Research Coordination, National Institute of Mental Health, NIH, Phone: 301–435–0886, Email: *IACCPublicInquiries@mail.nih.gov.*

Public Comments

The IACC welcomes public comments from members of the autism community and asks the community to review and adhere to its Public Comment Guidelines. In the *2016–2017 IACC Strategic Plan,* the IACC listed the ''Spirit of Collaboration'' as one of its core values, stating that, ''We will treat others with respect, listen with open minds to the diverse views of people on the autism spectrum and their families, thoughtfully consider community input, and foster discussions where participants can comfortably offer opposing opinions.'' In keeping with this core value, the IACC and the NIMH Office of Autism Research Coordination (OARC) ask that members of the public who provide public comments or participate in meetings of the IACC also seek to treat others with respect and consideration in their communications and actions, even when discussing issues of genuine concern or disagreement.

A limited number of slots are available for individuals to provide a 2–3-minute summary or excerpt of their written comment to the Committee live during the virtual meeting using the virtual platform. For those interested in that opportunity, please indicate ''Interested in providing virtual comment'' in your written submission, along with your name, address, email, phone number, and professional/organizational affiliation so that OARC staff can contact you if a slot is available for you to provide a summary or excerpt of your comment via the virtual platform during the meeting. For any given meeting, priority for live virtual comment slots will be given to those who have not previously provided live virtual comments in the current calendar year. This will help ensure that as many individuals as possible have an opportunity to share comments. Commenters going over their allotted 3-minute slot may be asked to conclude immediately in order to allow other comments and the rest of the meeting to proceed on schedule.

Public comments received by 5:00 p.m. ET on Friday, October 14, 2022, will be provided to the Committee prior to the meeting for their consideration. Any written comments received after 5:00 p.m. ET, Friday, October 14, 2022, may be provided to the Committee either before or after the meeting, depending on the volume of comments received and the time required to process them in accordance with privacy regulations and other applicable Federal policies. The Committee is not able to individually respond to comments. All public comments become part of the public record. Attachments of copyrighted publications are not permitted, but web links or citations for any copyrighted works cited may be provided. For public comment guidelines, see: *https://iacc.hhs.gov/meetings/public-comments/guidelines/.*

Technical Issues

If you experience any technical problems with the webcast please email *IACCPublicInquiries@mail.nih.gov.*

Meeting schedule subject to change.

Disability Accommodations

All IACC Full Committee Meetings provide Closed Captioning through the NIH videocast website. Individuals whose full participation in the meeting will require special accommodations (*e.g.,* sign language or interpreting services, etc.) must submit a request to the Contact Person listed on the notice at least seven (7) business days prior to the meeting. Such requests should include a detailed description of the accommodation needed and a way for the IACC to contact the requester if more information is needed to fill the request. Special requests should be made at least seven (7) business days prior to the meeting; last-minute requests will be accepted for consideration but may or may not be able to be fulfilled.

More Information

Information about the IACC is available on the website: *http://www.iacc.hhs.gov.*

Dated: September 20, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20655 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Office of Research Infrastructure Programs Special Emphasis Panel; Applications for Scientific Conferences.

Date: November 22, 2022.

Time: 11:00 a.m. to 3:00 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: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: September 19, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20562 Filed 9–22–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG–2021–0738]

Final Record of Decision for the Offshore Patrol Cutter Acquisition Program's Final Programmatic Environmental Impact Statement/ Overseas Environmental Impact Statement

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability of Record of Decision.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969 as amended and the Council on Environmental Quality NEPA Regulations, the Coast Guard has prepared a Record of Decision (ROD) for the Offshore Patrol Cutter (OPC) Program's acquisition of up to 21 OPCs and operation of up to 25 OPCs and by this notice, is announcing the availability of the ROD. The Coast Guard's decision to implement Alternative 1, described in the OPC's Final Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement (PEIS/POEIS), will enable the Coast Guard to fulfill mission requirements that are supported by OPCs while implementing a full range of mitigation measures.

DATES: Captain Andrew Pecora, USCG, OPC Program Manager signed the Record of Decision on 09 September 2022.

ADDRESSES: The Final ROD, the complete text of the Final PEIS/POEIS, and any supporting documents related to this decision are available in the docket which can be found by searching the docket number USCG–2021–0738 using the Federal eRulemaking Portal at *https://www.regulations.gov* or at *https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-Engineering-Logistics-CG-4-/Program-Offices/Environmental-Management/Environmental-Planning-and-Historic-Preservation/.*

FOR FURTHER INFORMATION CONTACT: If you have questions about the ROD, contact Andrew Haley, U.S. Coast Guard; email *HQS-SMB-OPCEIS@uscg.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, Sections 4321 *et seq.* of Title 42 United States Code, and Council on Environmental Quality Regulations (Sections 1500–1508 of Title 40 Code of Federal Regulations [CFR]), the Coast Guard announces its decision to implement the Coast Guard's preferred Alternative, Alternative 1, including the full range of mitigation measures, as described in the OPC's Final PEIS/POEIS. This decision will enable the Coast Guard to carry out primary missions supported by OPCs. A detailed description of Alternative 1 is provided in Chapter 2 (Proposed Action and Alternatives) of the OPC Final PEIS/POEIS.

In the Final PEIS/POEIS, the Coast Guard identified the Proposed Action as its preferred alternative in meeting the purpose and need to provide the Coast Guard with a reliable and operationally available presence to accomplish assigned missions in offshore waters exceeding the effective operating range of Fast Response Cutters. The Proposed Action includes the acquisition of up to 21 OPCs and operation of up to 25 OPCs with a design service life of 30 years to replace 28 aging MECs which would be, or have already been, decommissioned.

Following publication of a Notice of Intent (NOI) to prepare a PEIS/POEIS on November 18, 2020 (85 FR 73491), the Coast Guard prepared a Draft PEIS/POEIS in accordance with NEPA, as implemented by the CEQ Regulations (40 CFR 1500 *et seq.*); DHS Directive Number 023–01, Rev. 01 and Instruction

023–01–001, Rev. 01; and Coast Guard Commandant Instruction 5090.1. On September 20, 2021, the Coast Guard published a Notice of Availability (NOA) and a request for comments on the Draft PEIS/POEIS (86 FR 52162). The Coast Guard considered and addressed in the Final PEIS/POEIS comments received on the Draft PEIS/POEIS during the comment period. Public comments did not result in the addition of substantive revisions to the Draft PEIS/POEIS. Responses to comments are in Appendix I of the Final PEIS/POEIS.

On June 14, 2022, a NOA of the Final PEIS/POEIS was published in the **Federal Register** (87 FR 35986) initiating a 30 day opportunity to object. The Coast Guard received one comment and did not receive any eligible objections. The Final ROD documents the rationale for approving the Final PEIS/POEIS and is consistent with the Reviewing Officer's instructions. This notice is issued under the authority in 40 CFR 1505.2(a).

Responsible Official: The Responsible Official for approving the Final ROD is:

Dated: September 9, 2022.

Andrew T. Pecora,

Captain, USCG, OPC Program Manager.

[FR Doc. 2022–20696 Filed 9–22–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–LE–2022–0119; FF09L00000/FX/LE18110900000/223; OMB Control Number 1018–0092]

Agency Information Collection Activities; Federal Fish and Wildlife Applications and Reports—Law Enforcement

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 to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before November 22, 2022.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference 1018–0092 in the subject line of your comments):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–LE–2022–0119.
- *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: The Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) makes it unlawful to import or export wildlife or wildlife products for commercial purposes without first obtaining an import/export license (see 16 U.S.C. 1538(d)). The ESA also requires that fish or wildlife be imported into or exported from the United States only at a designated port, or at a nondesignated port under certain limited circumstances (see 16 U.S.C. 1538(f)). This information collection includes the following permit/license application forms:

FWS Form 3–200–2, ''Designated Port Exception Permit''

Under 50 CFR 14.11, it is unlawful to import or export wildlife or wildlife products at ports other than those designated in 50 CFR 14.12, unless you qualify for an exception. The following exceptions allow qualified individuals, businesses, or scientific organizations to import or export wildlife or wildlife products at a nondesignated port:

(a) To export the wildlife or wildlife products for scientific purposes;

(b) To minimize deterioration or loss; or

(c) To relieve economic hardship.

To request authorization to import or export wildlife or wildlife products at nondesignated ports, applicants must complete FWS Form 3–200–2. Designated port exception permits can be valid for up to 2 years. We may require a permittee to file a report on activities conducted under authority of the permit.

FWS Form 3–200–3a, ''Federal Fish and Wildlife Permit Application Form: Import/Export License—U.S. Entities,'' and 3–200–3b, ''Federal Fish and Wildlife Permit Application Form: Import/Export License—Foreign Entities''

It is unlawful to import or export wildlife or wildlife products for commercial purposes without first obtaining an import/export license (50 CFR 14.91). Applicants located in the United States must complete FWS Form 3–200–3a to request this license. Foreign applicants that reside or are located outside the United States must complete FWS Form 3–200–3b to request this license.

We use the information collected on FWS Forms 3–200–3a and 3–200–3b as an enforcement tool and management aid to (a) monitor the international wildlife market and (b) detect trends and changes in the commercial trade of wildlife and wildlife products. Import/export licenses are valid for up to 1 year. We may require a licensee to file a report on activities conducted under authority of the import/export license.

Proposed Revision

With this submission, we propose to revise application forms 3–200–2 and 3–200–3a to correct an error which removed the tax ID (Social Security Number or Employer Identification Number) field from the forms in the most recent revision of this collection. This critical information is used by wildlife inspectors and special agents during law enforcement investigations to ensure the identities of individuals are accurate and not mistaken while investigating wildlife crimes and to verify the applicant is the same person that had knowledge of wildlife laws and regulations.

Title of Collection: Federal Fish and Wildlife Applications and Reports—Law Enforcement; 50 CFR parts 13 and 14.

OMB Control Number: 1018–0092.

Form Number: FWS Forms 3–200–2, 3–200–3a, 3–200–3b, 3–200–44, and 3–200–44a.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals, private sector, and State/local/Tribal entities.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for Forms 3–200–2, 3–200–3a, 3–200–3b, 3–200–44, and reporting requirements and biannually for Form 3–200–44a.

Total Estimated Annual Nonhour Burden Cost: $1,188,700. There is a $100 fee associated with applications (Forms 3–200–2, 3–200–3a, and 3–200–3b) and a $150 fee associated with applications (Form 3–200–44) received from individuals and the private sector. There is no fee for applications from government agencies or for processing reports.

Activity/requirement	Estimated number of annual respondents	Estimated number of annual responses	Total estimated annual responses	Completion time per response (hours)	Estimated total annual burden hours *
FWS Form 3–200–2, ''Designated Port Exception Permit'' (50 CFR parts 13 and 14) (Hardcopy)					
Individuals	289	1	289	1.25	361
Private Sector	361	1	361	1.25	451
Government	7	1	7	1.25	9
FWS Form 3–200–2, ''Designated Port Exception Permit'' (50 CFR parts 13 and 14) (eLicense)					
Individuals	289	1	289	1	289
Private Sector	361	1	361	1	361
Government	7	1	7	1	7
FWS Form 3–200–3a, ''Federal Fish and Wildlife Permit Application Form: Import/Export License—U.S. Entities'' (50 CFR parts 13 and 14) (Hardcopy)					
Private Sector	5,099	1	5,099	1.25	6,374
FWS Form 3–200–3a, ''Federal Fish and Wildlife Permit Application Form: Import/Export License—U.S. Entities'' (50 CFR parts 13 and 14) (eLicense)					
Private Sector	5,099	1	5,099	1	5,099
FWS Form 3–200–3b, ''Federal Fish and Wildlife Permit Application Form: Import/Export License—Foreign Entities'' (50 CFR parts 13 and 14) (Hardcopy)					
Private Sector	190	1	190	1.25	238
FWS Form 3–200–3b, ''Federal Fish and Wildlife Permit Application Form: Import/Export License—Foreign Entities'' (50 CFR parts 13 and 14) (eLicense)					
Private Sector	190	1	190	1	190
Designated Port Exception Permit Report (50 CFR parts 13 and 14)					
Private Sector	5	1	5	1	5
Import/Export License Report (50 CFR parts 13 and 14)					
Private Sector	10	1	10	1	10

Activity/requirement	Estimated number of annual respondents	Estimated number of annual responses	Total estimated annual responses	Completion time per response (hours)	Estimated total annual burden hours *
FWS Forms 3–200–44, "Permit Application Form: Registration of an Agent/Tannery under the Marine Mammal Protection Act (MMPA)" (Hardcopy)					
Private Sector	3	1	3	.3	1
FWS Forms 3–200–44, "Permit Application Form: Registration of an Agent/Tannery under the Marine Mammal Protection Act (MMPA)" (ePermits)					
Private Sector	3	1	3	.25	1
FWS Form 3–200–44a, "Registered Agent/Tannery Bi-Annual Inventory Report" (Hardcopy)					
Private Sector	10	2	20	1	20
FWS Form 3–200–44a, "Registered Agent/Tannery Bi-Annual Inventory Report" (ePermits)					
Private Sector	10	2	20	.75	15
Total	11,933		11,953		13,431

* Rounded to Match ROCIS.

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. 2022–20627 Filed 9–22–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–MB–2022–0139; FF07CAFB00/223/FXFR13350700001; OMB Control Number 1018–0146]

Agency Information Collection Activities; Depredation and Control Orders

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 to renew an information collection.

DATES: Interested persons are invited to submit comments on or before November 22, 2022.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference 1018–0146 in the subject line of your comments):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2022–0139.
- *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: The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require that we preserve most U.S. species of birds, and prohibit activities involving migratory birds, except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter—or offer for sale, purchase, or barter—migratory birds or their parts, nests, or eggs, except as authorized by regulation. This information collection is associated with our regulations that implement the MBTA. We collect information concerning depredation actions taken to determine the number of take of birds of each species each year and whether the control actions are likely to affect the populations of those species.

FWS Form 3–2436, ''Depredation and Control Orders—Annual Reporting''

Regulations at 50 CFR 21 establish depredation orders and impose reporting and recordkeeping requirements. All persons or entities acting under depredation orders must provide an annual report. The capture and disposition of all non-target migratory birds, including Endangered, Threatened, or Candidate species must be reported on the Annual Report. In addition to the name, address, phone number, and email address of each person or entity operating under the Order, we collect the following information for each target and non-target species taken:

- Species taken,
- Number of birds taken,
- Months and years in which the birds were taken,
- State(s) and county(ies) in which the birds were taken,
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources), and
- Disposition of non-target species (released, sent to rehabilitation facilities, etc.).

We use the information to:

- Identify the person or entity acting under depredation orders;
- Assess the impact to non-target migratory birds or other species;
- Ensure that agencies and individuals operate in accordance with the terms, conditions, and purpose of the orders;
- Inform us as to whether there are areas in which control activities are concentrated and might be conducted more efficiently; and
- Help gauge the effectiveness of the following orders in mitigating order-specific related damages:

§ 21.43—Depredation order for blackbirds, cowbirds, crows, grackles, and magpies;

§ 21.44—Depredation order for horned larks, house finches, and white-crowned sparrows in California;

§ 21.46—Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon;

§ 21.49—Control order for resident Canada geese at airports and military airfields;

§ 21.50—Depredation order for resident Canada geese nests and eggs;

§ 21.51—Depredation order for resident Canada geese at agricultural facilities;

§ 21.52—Public health control order for resident Canada geese;

§ 21.53—Control order for purple swamphens;

§ 21.54—Control Order for Muscovy ducks in the United States;

§ 21.55—Control order for invasive migratory birds in Hawaii;

§ 21.60—Conservation Order for light geese; and

§ 21.61—Population control of resident Canada geese.

Recordkeeping Requirements (50 CFR 13.48)

Persons and entities operating under these orders must keep accurate records to complete Forms 3–2436. The records of any taking must be legibly written or reproducible in English and maintained for 5 years after the persons or entities have ceased the activity authorized by this Order. Persons or entities who reside or are located in the United States and persons or entities conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

Endangered, Threatened, and Candidate Species Take Report (50 CFR 21)

If attempts to trap any species under a depredation order injure a bird of a non-target species that is federally listed as endangered or threatened, or that is a candidate for listing, the bird must be delivered to a rehabilitator and must be reported by phone or email to the nearest Service Field Office or Special Agent. Capture and disposition of all non-target migratory birds must also be reported on the annual report.

Required Notifications (50 CFR 21)

- § 21.43—Report take of nontarget federally protected migratory birds to the nearest Service Field Office or Special Agent.
- § 21.49—Airports and military airfields or their agents must obtain authorization from landowners for all management activities conducted outside the airport or military airfield's boundaries.
- § 21.49—Airports and military airfields or their agents must notify USFWS Ecological Service offices if control activities are proposed in or around occupied habitats.
- § 21.50—Registrants may conduct resident Canada goose nest and egg destruction activities at any time of year. Homeowners' associations and local governments or their agents must obtain landowner consent prior to destroying nests and eggs on private property within the homeowners' association or local government's jurisdiction and be in compliance with all State and local laws and regulations.
- § 21.50—To protect certain species from being adversely affected by management actions, registrants must contact the Service if control activities are proposed in or around occupied habitats to discuss the proposed activity and ensure that implementation will not adversely affect protected species or their habitat.
- § 21.52—Information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263). (U.S. Geological Survey OMB Control Number 1028–0082)
- § 21.52—Information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263).
- § 21.52—Any State or Tribal employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.
- § 21.52—To protect certain species from being adversely affected by management actions, registrants must contact the Service if control activities are proposed in or around occupied habitats to discuss the proposed activity and ensure that implementation will not adversely affect protected species or their habitat.
- § 21.53—Authorized individuals operating this regulation must immediately report the take of any other species protected under the Endangered

Species Act (ESA), the MBTA, or the Bald and Golden Eagle Protection Act to the nearest Ecological Services office of the Fish and Wildlife Service.

- § 21.54—Authorized individuals operating this order must immediately report the take of any species protected under the ESA, or any other bird species protected under the MBTA, to the Fish and Wildlife Service Ecological Services Office for the State or location in which the take occurred.
- § 21.54—Authorized individuals operating this order must obtain appropriate landowner permission before conducting activities authorized by this order.
- § 21.55—Authorized personnel must obtain authorization from landowners prior to conducting management activities authorized by this order.
- § 21.55—Authorized individuals operating this order must immediately report the take of any species protected under the ESA or MBTA within 72 hours the take to the Pacific Region Migratory Bird Permit Office in Portland, Oregon.
- § 21.61—Authorized individuals operating under this section must immediately report the take of any species protected under the Endangered Species Act to the Service.

Conservation Order for Light Geese (50 CFR 21.60)

We published a final Environmental Impact Statement on light goose management in June 2007 and reaffirmed § 21.60 in a final rule published on November 5, 2008 (73 FR 65926). Publication of this final rule now supersedes the Arctic Tundra Habitat Emergency Conservation Act which is no longer in effect. These regulations impose require States and Tribes keep annual records of activities carried out under the authority of the conservation order and submit an annual report summarizing activities conducted under the conservation order on or before September 15 of each year. Specifically, information must be collected on:

- The number of persons participating in the conservation order;
- The number of days people participated in the conservation order;
- The number of light geese shot and retrieved under the conservation order; and
- The number of light geese shot but not retrieved.

Conservation Order Participants—Provide Information to States (50 CFR 21.60)

Persons acting under the authority of the conservation order must permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted and must promptly furnish whatever information an officer requires concerning the operation.

Control and Management of Resident Canada Geese (50 CFR 20.21, 21.49, 21.50, 21.51, 21.52 and 21.61)

We use the information required in 50 CFR part 21, subpart E to monitor the status of resident Canada goose populations and to assess the impacts that this alternative regulatory strategy may have on resident Canada goose populations.

Except for the nest and egg depredation order, there is no specified form for providing the information. The nest and egg depredation order employs a web-based computer registration system with screens designed to collect the appropriate information.

Annual Report—Airport Control Order (50 CFR 21.49)

Airports and military airfields exercising the privileges granted by this section must:

- Submit information on birds carrying metal leg bands to the Bird Banding Laboratory (§ 21.49(d)(4)). OMB has approved this information collection under OMB Control No. 1028–0082. We use this information to track geographic movement and survival of individual birds.
- Submit an annual report summarizing activities, including the date and numbers and location of birds, nests, and eggs taken by December 31 (§ 21.49(d)(8)). We use this information to monitor the resident Canada goose populations in different areas of the country.
- Immediately report to the appropriate migratory bird office, the take of any species protected under the ESA (§ 21.49(d)(8)). This information ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA. Further, to protect certain species from being adversely affected by management actions, registrants must notify USFWS Ecological Service offices if control activities are proposed in or around occupied habitats.

Nest and Egg Depredation Order (50 CFR 21.50)

Landowners operating under this order must:

- Register with the Service using our web-based registration system (*https://epermits.fws.gov/eRCGR*) (§ 21.50(d)(1)). Registration includes name of landowner, names of designated agents, location of management activities, and contact information. The registration is valid for 1 year; the registrant must renew the registration each year he or she wishes to take nests and eggs. To renew the registration, the registrant must review the information and certify that it is correct. If any information entered during initial registration has changed, the registrant only needs to enter the revised information. We use this information for enforcement purposes and to contact registrants when there are questions regarding their report information. We uploaded screen shots of the registration website and a copy of the User Guide as supplementary documents in ROCIS.
- Complete an annual report summarizing the date (month), numbers, and location of nests and eggs taken by October 31 (§ 21.50(d)(6)). We use this information to monitor the effectiveness of the program and the cumulative effect of the take of nests and eggs on various subpopulations of resident Canada goose populations in different areas of the country. We distribute reports of the numbers of nests and eggs taken, by State and county, annually to the States, Flyway Councils, and Service biologists for their use in determining allowable take by other methods, including hunting seasons. We now also include this information on the registration website.
- Immediately report to the appropriate migratory bird office, the take of any species protected under the ESA (§ 21.50(d)(8)). This information ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA.

Agricultural Depredation Order (50 CFR 21.51)

- Authorized agricultural producers and their employees and agents must submit information on birds carrying metal leg bands to the Bird Banding Laboratory (§ 21.51(d)(5)). This information is used to track geographic movement and survival of individual birds. OMB has approved this information collection under OMB Control No. 1028–0082 (Interior—US Geological Survey).
- Recordkeeping Requirement (Private Sector Only)—Authorized agricultural producers must:

—Keep and maintain a log that indicates the date and number of birds killed and the date and number of nests and eggs taken under this authorization;
—Maintain the log for a period of 3 years (and records for 3 previous years of takings at all times thereafter); and
—Make the log and any related records available to Federal, State, or Tribal wildlife enforcement officers (§ 21.51(d)(8)).

• Reporting Requirement (States and Tribes Only)—States and Tribes must submit by December 31 an annual report summarizing activities, including the numbers of birds, nests, and eggs taken and county where taken (§ 21.51(d)(10)). We use this information to monitor the resident Canada goose populations in different areas of the country.

• Persons operating under this order must immediately report to the appropriate migratory bird office, the take of any species protected under the ESA (§ 21.51(d)(12)). This ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA.

Public Health Control Order (50 CFR 21.52)

States and Tribes must:

• Submit information on birds carrying metal leg bands to the Bird Banding Laboratory (§ 21.52(e)(4)). This information is used to track geographic movement and survival of individual birds. OMB has approved this information collection under OMB Control No. 1028–0082.

• Promptly furnish whatever information is required concerning such activities to any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer (§ 21.52(e)(8)).

• Submit by December 31 an annual report summarizing activities, including the numbers and county of birds taken (§ 21.52(e)(9)). We use this information to monitor the resident Canada goose populations in different areas of the country.

• Immediately report to the appropriate migratory bird office, the take of any species protected under the ESA (§ 21.52(e)(10)). This ensures that the program does not exceed incidental take limits authorized under section 7 of the ESA.

• Notify USFWS Ecological Service offices if control activities are proposed in or around occupied habitats (§ 21.52(e)(10)(iv) and (v)).

Population Control of Resident Canada Geese (50 CFR 21.61)

States and Tribes:

• May request approval for the population control program. Requests must include a discussion of the State's or Tribe's efforts to address its injurious situations or a discussion of the reasons why the methods authorized by these regulations are not feasible for dealing with, or applicable to, the injurious situations that require further action. Requests must provide detailed information of the injuries that continue, why the authorized methods have not worked, and why methods not utilized could not resolve the injuries (§ 21.61(d)). This information is necessary for us to access whether or not the program should be authorized.

• Must keep annual records of activities carried out under the authority of the program including:

(1) The number of individuals participating in the program;

(2) The number of days each individual participated in the program;

(3) The total number of resident Canada geese shot and retrieved during the program; and

(4) The number of resident Canada geese shot but not retrieved (§ 21.61(d)(7)).

We use this information, in conjunction with take under other methods and hunting seasons, to determine cumulative impacts on the various goose populations.

• Must submit by June 1 an annual report summarizing activities conducted under the program and an assessment of the continuation of injuries (§ 21.61(d)(7)(iv)). We use this information to determine if we should continue to authorize program activities.

• Must provide by August 1 an annual estimate of the breeding population and distribution of resident Canada geese in their State (§ 21.61(h)). We use this information to monitor the impacts of this program, as well as other authorized activities, on the population and to determine if we should continue to authorize program activities.

Endangered or Threatened Species Take Report (50 CFR 21.51 and 21.61)

Persons operating under § 21.51 must immediately report the take of any species protected under the Endangered Species Act to the Service. States may not undertake any actions under § 21.61 if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under § 21.61 must immediately report the take of any species protected under the Endangered Species Act to the Service.

Title of Collection: Depredation and Control Orders Under 50 CFR 21.

OMB Control Number: 1018–0146.

Form Number: FWS Forms 3–2436.

Type of Review: Renewal without change of a currently approved collection.

Respondents/Affected Public: State and Federal wildlife damage management personnel, farmers, and individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for take reports and annually for annual reports.

Total Estimated Annual Nonhour Burden Cost: $78,000 (each participating State/Tribe will incur for overhead costs (materials, printing, postage, etc.) associated with mailing surveys to conservation order participants).

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Average time per response (hours)	Total annual burden hours *
Annual Report—Depredation Order (Form 3–2436)						
Individuals	Reporting	8	1	8	3	24
	Recordkeeping				1	8
Private Sector	Reporting	8	1	8	3	24
	Recordkeeping				1	8
Government	Reporting	11	1	11	3	33
	Recordkeeping				1	11

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Average time per response (hours)	Total annual burden hours *
ePermits Annual Report—Depredation Order (Form 3–2436)						
Individuals	Reporting	8	1	8	2.5	20
	Recordkeeping				1	8
Private Sector	Reporting	8	1	8	2.5	20
	Recordkeeping				1	8
Government	Reporting	11	1	11	2.5	28
	Recordkeeping				1	11
Report Take—Endangered, Threatened, and Candidate Species § 21.43, § 21.49–21.55, and § 21.61						
Individuals	Reporting	1	1	1	.75	1
	Recordkeeping				.25	0
Private Sector	Reporting	3	1	3	.75	2
	Recordkeeping				.25	1
Government	Reporting	3	1	3	.75	2
	Recordkeeping				.25	1
Conservation Order for Control of Light Geese § 21.60						
Government	Reporting	39	1	39	106	4,134
	Recordkeeping				8	312
Conservation Order Participants—Provide Information to States § 21.60						
Individuals	Reporting	21,538	1	21,538	.13333	2,872
Annual Report—Airport Control Order § 21.49						
Private Sector	Reporting	25	1	25	1	25
	Recordkeeping				.5	13
Government	Reporting	25	1	25	1	25
	Recordkeeping				.5	13
Initial Registration—Nest & Egg Depredation Order § 21.50						
Individuals	Reporting	126	1	126	.5	63
Private Sector	Reporting	674	1	674	.5	337
Government	Reporting	200	1	200	.5	100
Renew Registration—Nest & Egg Depredation Order § 21.50						
Individuals	Reporting	374	1	374	0.25	94
Private Sector	Reporting	2,026	1	2,026	0.25	507
Government	Reporting	600	1	600	0.25	150
Annual Report—Nest & Egg Depredation Order § 21.50						
Individuals	Reporting	500	1	500	.17	85
	Recordkeeping				.08	40
Private Sector	Reporting	2,700	1	2,700	.17	459
	Recordkeeping				.08	216
Government	Reporting	800	1	800	.17	136
	Recordkeeping				.08	64
Recordkeeping—Agricultural Depredation Order § 21.51						
Private Sector	Recordkeeping	600	1	600	0.5	300
Annual Report—Agricultural Depredation Order § 21.51						
Government	Reporting	20	1	20	7	140
	Recordkeeping				1	20
Annual Report—Public Health Order § 21.52						
Government	Reporting	20	1	20	.75	15
	Recordkeeping				.25	5
Annual Report and Recordkeeping—Population Control Approval Request § 21.61						
Government	Reporting	3	1	3	12	36
	Recordkeeping				12	36

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Average time per response (hours)	Total annual burden hours *
Population Control Approval Request (Population and Distribution Estimates) § 21.61						
Government	Reporting	3	1	3	160	480
Totals:		30,334		30,334		10,887

* Rounded to match ROCIS.

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. 2022–20662 Filed 9–22–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R5–NWRS–2022–0114; FXRS12610500000/FF05RLNP00/223; OMB Control Number 1018–New]

Agency Information Collection Activities; Lenape National Wildlife Refuge Complex Mentored Hunt Application

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 in use without an Office of Management and Budget (OMB) control number.

DATES: Interested persons are invited to submit comments on or before November 22, 2022.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods:

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R5–NWRS–2022–0114.
- *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.

Please reference ''OMB Control Number 1018–New Mentored Hunts'' in the subject line of your comments.

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: The Service enters into agreements and partnerships with nonprofit groups to facilitate and formalize collaboration between the parties in support of mutual goals and objectives as authorized by:

- The Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j);
- The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–ee), as amended;
- The Refuge Recreation Act of 1962 (16 U.S.C. 460k *et seq.*), as amended;
- The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661–667e), as amended; and
- The National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998 (16 U.S.C. 742f), as amended.

Since 2014, the Lenape National Wildlife Refuge Complex, in partnership with the New Jersey Chapters of the National Wild Turkey Foundation (NWTF), jointly administers mentored hunts on an annual basis. The mentored hunts occur on refuge property, and many of the mentors come from NWTF. The partnership provides would-be hunters with an opportunity to experience hunting by learning from

Service staff and our partners through a mentored hunt program. The program not only provides the necessary hunting experience, but it also teaches the hunters about a variety of hunting topics, from ethics to shooting proficiency to wildlife ecology.

The program provides a great introduction to the rules and regulations that govern access, which can be a little overwhelming to new hunters. The Service's partnership with the NWTF helps new hunters to better understand access, rules, regulations, and setting up on public land. The program provides applicants with an opportunity to start a new family tradition, harvest their own food in a sustainable manner, or enjoy the outdoors in a new manner which is a safe, inclusive, and fun way to enjoy their public lands.

The Service requires all participants to sign the Service's ''USFWS Release and Waiver of Liability,'' as well as a Form 3–2260, ''Agreement for Use of Likeness in Audio/Visual Products,'' when they are on the Refuge. The New Jersey Chapter of the NWTF solicits and registers participants via the mentored hunt application. The application collects the following information:

- Basic contact information, to include name, address, phone number, and email address;
- Age at time of hunt;
- Customer Identification number (CID);
- Emergency contact (name and phone number);
- Applicant hunting history, such as:

—Whether applicant has completed a basic hunter education course;
—Whether applicant has purchased a hunting license, and if yes, when;
—Previous hunting experience;
—Previous participation in a mentored hunt program;
—Interest in hunting;
—Family history of hunting;
—Whether applicant owns equipment and if yes, type of equipment; and
—Medical conditions/allergies for program staff to be aware of in the event of an emergency.

The public may request copies of the application form contained in this information collection by sending a request to the Service Information Collection Clearance Officer in **ADDRESSES**, above.

Title of Collection: Lenape National Wildlife Refuge Complex Mentored Hunt Application.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Respondents/Affected Public: Individuals/households.

Total Estimated Number of Annual Respondents: 25.

Total Estimated Number of Annual Responses: 25.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 2 hours (rounded).

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

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. 2022–20625 Filed 9–22–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2021–0003]

Notice of Availability of the Proposed Notice of Sale for Cook Inlet Oil and Gas Lease Sale 258

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of availability of the proposed notice of sale for Cook Inlet Oil and Gas Lease Sale 258.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) announces the availability of the Proposed Notice of Sale (NOS) for the proposed Cook Inlet Oil and Gas Lease Sale 258 (Cook Inlet Sale 258). Cook Inlet Sale 258 is required to be held by the Inflation Reduction Act of 2022. BOEM is publishing this notice pursuant to its regulatory authority. Regarding oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior, pursuant to the Outer Continental Shelf Lands Act, provides the Governor of Alaska and the executive of any affected local government the opportunity to comment on the proposed sale's size, timing, and location. The Proposed NOS describes the proposed size, timing, and location of the sale, including lease stipulations, terms and conditions, minimum bids, royalty rates, and rental rates.

DATES: Comments received from the Governor and the executive of any affected local government on the size, timing, and location of Cook Inlet Sale 258 must be submitted to BOEM no later than November 22, 2022. BOEM will publish the Final NOS in the **Federal Register** at least 30 days prior to the date of public bid opening. Bid opening is currently scheduled for December 30, 2022.

ADDRESSES: The Proposed NOS for Cook Inlet Sale 258 and other information essential to potential bidders may be obtained from the Leasing Section, Alaska Region, Bureau of Ocean Energy Management, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503; telephone: 907–334–5200. The Proposed NOS and other related information also are available for downloading or viewing on BOEM's website at *https://www.boem.gov/ak258.*

FOR FURTHER INFORMATION CONTACT: Joel Immaraj, Alaska Regional Supervisor, Office of Leasing and Plans, 907–334–5238, *joel.immaraj@boem.gov* or Andrew Krueger, Chief, Sales Coordination Branch, Office of Strategic Resources, 703–787–1554, *andrew.krueger@boem.gov.*

Authority: This notice of sale is published pursuant to 43 U.S.C. 1331 *et seq.* (Outer Continental Shelf Lands Act, as amended) and 30 CFR 556.304(c).

Amanda Lefton,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2022–20692 Filed 9–22–22; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1232 (Remand)]

Certain Chocolate Milk Powder and Packaging Thereof; Commission Decision Not To Review an Initial Determination Granting Motion for Summary Determination of Violation of Section 337; Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review an initial determination (''ID'') (Order No. 27) of the presiding chief administrative law judge (''CALJ''), granting summary determination on violation of section 337 and including a recommended determination (''RD'') on remedy and bonding. The Commission requests

briefing from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On December 1, 2020, the Commission instituted this investigation based on a complaint filed by Meenaxi Enterprise Inc. of Edison, New Jersey (''Meenaxi''). 85 FR 77237 (Dec. 1, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, due to the importation into the United States, sale for importation, or sale in the United States after importation of certain chocolate milk powder and packaging thereof that purportedly infringe U.S. Trademark Registration No. 4,206,026 (''the '026 mark''). *Id.* The complaint also alleges the existence of a domestic industry. *Id.* The notice of investigation names twenty-one respondents: Bharat Bazar Inc. of Union City, California (''Bharat Bazar''); Madras Group Inc. d/b/a Madras Groceries of Sunnyvale, California; Organic Food d/b/a Namaste Plaza Indian Super Market of Fremont, California (''Organic Food''); India Cash & Carry of Sunnyvale California; New India Bazar Inc. d/b/a New India Bazar of San Jose, California (''New India''); Aapka Big Bazar of Jersey City, New Jersey; Siya Cash & Carry Inc. d/b/a Siya Cash & Carry of Newark, New Jersey; JFK Indian Grocery LLC d/b/a D-Mart Super Market of Jersey City, New Jersey; Trinethra Indian Super Markets of Newark, California; Apna Bazar Cash & Carry Inc. d/b/a Apna Bazar Cash & Carry of Edison, New Jersey; Subzi Mandi Cash & Carry Inc. d/b/a Mandi Cash & Carry of Piscataway, New Jersey; Patidar Cash & Carry Inc. d/b/a Patidar Cash & Carry of South Plainfield, New Jersey; Keemat Grocers of Sugarland, Texas; KGF World Food Warehouse Inc. d/b/a World Food Mart of Houston, Texas; Telfair Spices of Sugarland Texas; Indian Groceries and Spices Inc. d/b/a iShopIndia.com of Milwaukee, Wisconsin; Rani Foods LP d/b/a Rani's World Foods of Houston, Texas; Tathastu Trading LLC of South Plainfield, New Jersey; and Choice Trading LLC of Guttenberg, New Jersey. *Id.* The Office of Unfair Import Investigation (''OUII'') was named as a party. *Id.*

On February 10, 2021, the CALJ issued an ID (Order No. 6) finding all respondents in default. OUII supported the motion. On March 2, 2021, the Commission issued a notice determining not to review Order No. 6.

On May 24, 2021, Meenaxi moved for a summary determination of violation by all of the respondents, each of whom had previously been found in default. On June 16, 2021, OUII responded in support of the motion. On December 1, 2021, the CALJ granted the motion as an ID (Order No. 15). No petitions for review of the ID were filed. The ID, however, noted discrepancies with respect to respondent Organic Food, calling into question whether that respondent was ever properly served with the complaint and notice of investigation and with the CALJ's order to show cause why the respondents should not be found in default, Order No. 5 (Jan. 13, 2021). *See* Order No. 15 at 1 n.1. The Commission determined sua sponte to review Order No. 15, and ordered reconsideration of Order No. 6 as to Organic Food and/or any other respondents who may not have been properly served with documents in the underlying investigation. Notice at 3 (Jan 18, 2022). The Commission remanded the investigation to the CALJ for further proceedings. *Id.*

On remand, the CALJ assigned this investigation to himself. He later issued Order No. 18, granting Meenaxi's unopposed motion for leave to amend the complaint and notice of investigation to (i) substitute Organic Food with proposed respondent Organic Ingredients Inc. d/b/a Namaste Plaza Indian Super Market of San Diego, California (''Organic Ingredients''); (ii) correct the address of respondent New India Bazar Inc. d/b/a New India Bazar (''New India'') of San Jose, California; (iii) correct the address of respondent Bharat Bazar Inc. of Union City, California (''Bharat Bazar''); and (iv) supplement the complaint with Exhibits 9–a, 9–b, and 9–c, concerning Organic Food and/or Organic Ingredients. Order No. 18 at 1–5 (Mar. 11, 2022), *unreviewed by* Comm'n Notice, 87 FR 22, 940 (Apr. 18, 2020). Meenaxi demonstrated that Bharat Bazar had been actually served with all of the documents in the investigation (prior to remand) despite incorrectly spelling Bharat Bazar's address as being on ''Niled Road'' instead of ''Niles Road.'' Order No. 18 at 4.

The CALJ conducted remand proceedings as to Organic Ingredients and New India, first ordering them to respond to the amended complaint and notice of investigation, and then ordering them to respond to an order to show cause why they should not be found in default. *See* Order No. 27 at 3 (Aug. 3, 2022). On May 19, 2022, the CALJ issued an initial determination finding Organic Ingredients and New India in default. Order No. 23 (May 19, 2022), unreviewed by Notice at 2 (June 14, 2022).

On June 15, 2022, Meenaxi filed a second motion for summary determination of violation of section 337 as to the defaulting respondents, and requesting the issuance of a general exclusion order. On July 6, 2022, OUII responded in support of Meenaxi.

On August 23, 2022, the CALJ issued the subject ID (Order No. 27) granting Meenaxi's motion. The ID adopts substantially all of the findings from Order No. 15. In particular, the ID finds, *inter alia,* that Meenaxi owns the '026 Mark, that the '026 Mark is valid, that the respondents import or sell after importation products that bear the '026 Mark, that the respondents infringe the '026 Mark, and that the technical prong and economic prong of the domestic industry requirement have been satisfied.[1] Order No. 27 at 4 (citing Order No. 15 at 12–29). The ID also finds that Organic Ingredients and New India have sold the infringing products after importation into the United States and that these respondents infringe the '026 Mark by selling these products. ID at 9–10. As to remedy, the RD finds that there is a widespread pattern of unauthorized use of the asserted patents and that a general exclusion order is necessary to prevent circumvention. Order No. 27 at 18 (citing Order No. 15 at 29–33). The RD recommends a bond rate of one hundred (100%) because complete pricing information and royalty information is not available. Order No. 27 at 19 (citing Order No. 15 at 34–35).

No petitions for review of the ID were filed.

[1] To the extent the ID finds that quality control investments as a category can never be counted for the economic prong of the domestic industry requirement, *see* Order No. 15 at 27, Commissioners Schmidtlein and Karpel do not join that finding. Any such disagreement, however, is not outcome determinative in this investigation.

The Commission has determined not to review the ID.

In connection with the final disposition of this investigation, the statute authorizes issuance of: (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) one or more cease and desist orders (''CDOs'') that could result in the defaulting respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or CDO would have on: (1) the public health and welfare; (2) competitive conditions in the U.S. economy; (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation; and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to this investigation, interested government agencies, and any other interested parties are invited to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should include views on the RD by the CALJ on remedy and bonding.

In its initial written submissions, Meenaxi is also requested to identify the remedy sought and Meenaxi and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Meenaxi is further requested to provide the HTSUS subheadings under which the subject articles are imported and to supply identification information for all known importers of the subject articles.

Initial written submissions, including proposed remedial orders, must be filed no later than close of business on October 3, 2022. Reply submissions must be filed no later than the close of business on October 10, 2022. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (Inv. No. 337–TA–1232) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission vote for these determinations took place on September 19, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20610 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–1331]

Certain Outdoor and Semi-Outdoor Electronic Displays, Products Containing Same, and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 19, 2022, under section 337 of the Tariff Act of 1930, as amended, on behalf of Manufacturing Resources International, Inc. of Alpharetta, Georgia. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain outdoor and semi-outdoor electronic displays, products containing same, and components thereof by reason of the infringement of certain claims of U.S. Patent No. 8,854,595 (''the '595 Patent''); U.S. Patent No. 9,173,322 (''the '322 Patent''); U.S. Patent No. 9,629,287 (''the '287 Patent''); U.S. Patent No. 10,506,740 (''the '740 Patent''); and U.S. Patent No. 11,013,142 (''the '142 Patent''). The complaint further alleges that an industry in the United States exists as required by the applicable

Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica Mullan, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2022).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 19, 2022, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 4, 7, and 8 of the '595 patent; claims 4, 5, 8, 9, 12, 13, and 16 of the '322 patent; claims 1, 4, 8–12, 15, and 21–23 of the '287 patent; claims 1, 5, and 6 of the '740 patent; and claims 1–15 of the '142 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''outdoor and semi-outdoor electronic displays, products containing same (housings, enclosures, kiosks, and menu boards), and component thereof (systems for cooling electronic displays)'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Manufacturing Resources International, Inc., 6415 Shiloh Road East, Alpharetta, GA 30005.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co., Ltd., 129 Samsung ro (Maetan-dong), Yeongtong-gu Suwon-si, Gyeonggi-do 16677 Republic of Korea.

Samsung Electronics America, Inc., 85 Challenger Road, Ridgefield Park, New Jersey 07660.

Samsung SDS Co. Ltd., 125–35-Gil, Olympic-ro Songpa-gu, Seoul, 138–240 Korea, Republic of Korea 05510.

Samsung SDS America, Inc., 100 Challenger Road, Ridgefield Park, New Jersey 07660.

Coates Signco Pty Limited, 36 Doody Street, Alexandria, NSW 2015, Sydney, Australia.

Coates Visual LLC, 112 N May St, 2nd Fl, Chicago, Illinois 60607.

Industrial Enclosure Corporation, d/b/a Palmer Digital Group, 619 N. Loucks Street, Aurora, Illinois 60505.

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20607 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–560–561 and 731–TA–1317–1328 (Review)]

Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, South Africa, South Korea, Taiwan, and Turkey; Hearing Update for the Subject Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Nayana Kollanthara (202–205–2043), 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 July 8, 2022, the Commission established a schedule for the conduct of the full five-year reviews (87 FR 43057, July 19, 2022). 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 November 15, 2022.

Requests to appear at the hearing should be filed in writing with the

Secretary to the Commission on or before November 7, 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 reviews, 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 November 14, 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 20, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20689 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–562 and 731–TA–1329 (Review)]

Ammonium Sulfate From China; Hearing Update for the Subject Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Peter Stebbins (202–205–2039), 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 August 1, 2022, the Commission established a schedule for the conduct of the full five-year reviews (87 FR 47463). 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 December 6, 2022.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 29, 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 reviews, 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 December 5, 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 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20608 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1574 (Final)]

Superabsorbent Polymers From South Korea; Hearing Update for the Subject Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Celia Feldpausch (202–205–2387), 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On June 7, 2022, the Commission established a schedule for the conduct of the final phase of the antidumping duty investigation (87 FR 38422, June 28, 2022). The Commission hereby gives notice that the hearing in connection with the investigation will be held in-person at the U.S. International Trade Commission Building beginning at 9:30 a.m. on October 18, 2022.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 12, 2022. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear 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 in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID–19 test result may be submitted by 3:00 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 4:00 p.m. on October 17, 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 and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20612 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–678 and 731–TA–1584 (Final)]

Barium Chloride From India; Hearing Update for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Alejandro Orozco ((202) 205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On August 17, 2022, the Commission established a schedule for the conduct of the final phase of these investigations (87 FR 54714, September 7, 2022). The Commission hereby gives notice that the hearing in connection with the investigations will be held in-person at the U.S. International Trade Commission Building beginning at 9:30 a.m. on January 5, 2023.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 28, 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 investigations, 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 January 4, 2023. 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 and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20611 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1312]

Certain Mobile Electronic Devices; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation in its Entirety Based on Withdrawal of the Complaint

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 10) of the presiding administrative law judge (''ALJ'') terminating the investigation in its entirety based on withdrawal of the complaint. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On May 4, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on a complaint filed by Maxell, Ltd. of Kyoto, Japan (''Maxell'' or ''Complainant''). *See* 87 FR 26373–74 (May 4, 2022). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile electronic devices by reason of infringement of certain claims of U.S. Patent Nos. 7,199,821; 7,324,487; 8,170,394; 8,982,086; 10,129,590; and 10,244,284. The notice of investigation names Lenovo Group Ltd. of Beijing, China; Lenovo (United States) Inc. (''Lenovo US'') of Morrisville, North Carolina; and Motorola Mobility LLC of Libertyville, Illinois (collectively, ''Respondents''), as respondents in the investigation. *See id.* The Office of Unfair Import Investigations is also a party to the investigation. *See id.*

On July 14, 2022, the Commission determined not to review an ID (Order No. 5) granting in part Complainant's motion to amend the complaint and notice of investigation. *See* Order No. 5 (June 14, 2022), *unreviewed by* Commission Notice (July 14, 2022). Specifically, Order No. 5 grants the motion with respect to Complainant's request to withdraw the assertions in the complaint regarding Complainant's reliance on its licensee Apple Inc.'s domestic activities to satisfy the domestic industry requirement. Order No. 5 also grants Complainant's request

to amend the complaint and notice of investigation to include Lenovo-branded products in the plain-language description of the accused products. Order No. 5, however, denies Complainant's request to amend the complaint to permit Complainant to rely upon Lenovo US's domestic activities to establish the domestic industry requirement.

On July 18, 2022, Complainant filed a motion to terminate this investigation in its entirety based on withdrawal of the complaint, contingent upon the Commission instituting an investigation based on its own separate complaint filed in *Certain Mobile Electronic Devices,* Dkt. No. 337–3625. On July 25, 2022, Respondents filed a response partially opposing the motion with respect to Complainant's asserted contingency. On July 27, 2022, Complainant filed a reply in support of its motion.

On August 16, 2022, the Commission issued a notice of institution of Investigation No. 337–TA–1324 based on the complaint filed in *Certain Mobile Electronic Devices,* Dkt. No. 337–3625. *See* 87 FR 51445–46 (Aug. 22, 2022). In view of the issuance of the Commission's notice, on August 17, 2022, Respondents filed a notice withdrawing their partial opposition with respect to Complainant's asserted contingency.

On August 19, 2022, the ALJ issued the subject ID (Order No. 10) granting Complainant's motion to terminate this investigation based on complaint withdrawal. The ID finds that the motion complies with the Commission Rules. *See* ID at 2–3. In accordance with Commission Rule 210.21(a), 19 CFR 210.21(a), Complainant represents that ''there are no agreements, written or oral, express or implied, between Maxell and the Respondents concerning the subject matter of this investigation.'' *See id.* at 3. In addition, the ID finds ''no extraordinary circumstances that would justify denying termination of this investigation based on withdrawal of the Complaint.'' *See id.* After the issuance of Order No. 10, Investigation No. 337–TA–1324 was instituted upon publication of the notice of investigation in the **Federal Register** on August 22, 2022. *See* 87 FR 51445–46 (Aug. 22, 2022).

No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID. The investigation is terminated.

The Commission's vote for this determination took place on September 19, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20575 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1586 (Final)]

Sodium Nitrite From Russia; Supplemental Schedule for the Final Phase of Antidumping Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 12, 2022.

FOR FURTHER INFORMATION CONTACT: Peter Stebbins ((202) 205–2039), 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 investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective April 15, 2022, the Commission established a general schedule for the conduct of the final phase of its countervailing and antidumping duty investigations on sodium nitrite from India and Russia (87 FR 23567, April 20, 2022), following a preliminary determination by the U.S. Department of Commerce (''Commerce'') that imports of sodium nitrite from Russia were being subsidized by the government of Russia (87 FR 22504, April 15, 2022). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on April 20, 2022, (87 FR 23567). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its hearing through written testimony and video conference on June 21, 2022. All persons who requested the opportunity were permitted to participate.

Commerce issued a final affirmative countervailing duty determination with respect to sodium nitrite from Russia (87 FR 38375, June 28, 2022). The Commission subsequently issued its final determination that an industry in the United States was materially injured by reason of imports of sodium nitrite from Russia provided for in subheading 2834.10.10 of the Harmonized Tariff Schedule of the United States (''HTSUS'') that have been found by Commerce to be subsidized by the government of Russia (87 FR 51141, August 19, 2022).

Commerce issued a final affirmative antidumping duty determination with respect to imports of sodium nitrite from Russia (87 FR 55781, September 12, 2022). Accordingly, the Commission currently is issuing a supplemental schedule for its antidumping duty investigation on imports of sodium nitrite from Russia.

This supplemental schedule is as follows: the deadline for filing supplemental party comments on Commerce's final antidumping duty determination is September 21, 2022. Supplemental party comments may address only Commerce's final antidumping duty determination regarding imports of sodium nitrite from Russia. These supplemental final comments may not contain new factual information and may not exceed five (5) pages in length. The supplemental staff report in the final phase of the current investigation will be placed in the nonpublic record on October 7, 2022; and a public version will be issued thereafter.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific

request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 20, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20691 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1299, 1300, and 1302 (Review)]

Circular Welded Carbon-Quality Steel Pipe From Oman, Pakistan, and the United Arab Emirates; Hearing Update for the Subject Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Jordan Harriman (202–205–2610), 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 June 14, 2022, the Commission established a schedule for the conduct of the full five-year reviews (87 FR 36881, June 21, 2022). 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 October 13, 2022.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 4, 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 reviews, 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 October 12, 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 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20609 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Smart Thermostat Hubs, Systems Containing the Same and Components of the Same, DN 3644*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Katherine M. Hiner, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of EDST, LLC and Quext IoT, LLC on September 16, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of regarding certain smart thermostat hubs, systems containing the same and components of the same. The complainant names as respondents: iApartments, Inc. of Tampa, FL; Huarifu Technology Co., Ltd. of Taiwan and Hsun Weath Technology Co., Ltd. of Taiwan. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders and impose a bond upon respondent's alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing.

Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3644'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 19, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20576 Filed 9–22–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0043]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice, is 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.

DATES: The Department of Justice encourages public comment and will accept input until October 24, 2022.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Larry E. Cotton-Zinn, Management and Program Analyst, FBI, CJIS, Biometric Services Section, Criminal History Information and Policy Unit, BTC 3B, 1000-Custer Hollow Road, Clarksburg, West Virginia 26306; phone: 304–625–5590 or email *fbi-iii@fbi.gov.* Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

➢ Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, Criminal Justice Information Services Division, including whether the information will have practical utility;

➢ 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;

➢ Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

➢ Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Voluntary Appeal File (VAF) Application Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The sponsoring component within the Department of Justice is the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Potential firearm purchasers. If a potential purchaser is delayed or denied a firearm and successfully appeals the decision, the National Instant Criminal Background Section (NICS) cannot retain a record of the overturned appeal or the supporting documentation. If the record is not able to be updated or the fingerprints are non-identical to a disqualifying record used in the evaluation, the purchaser continues to be delayed or denied, and if that individual appeals the decision, the documentation/information (*e.g.,* fingerprint cards, court records, pardons, etc.) must be resubmitted for every subsequent purchase. The VAF was established per 28 CFR, Part 25.10(g), for this reason. By this process, applicants can voluntarily request the NICS Section maintain information about themselves in the VAF to prevent future extended delays or denials of a firearm.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated the time it takes to read, complete, and upload documents is 30 minutes. Travel time to the fingerprinting facility and post office is not factored in the time estimate. The BSS Section estimates 3,737 respondents yearly.

6. *An estimate of the total public burden (in hours) associated with the collection:* With 3,737 applicants responding, the formula for applicant burden hours would be as follows: (3,737 respondents × .5 hours) = 1868.5 hours.

If additional information is required contact: Robert Houser, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 3E.206, Washington, DC 20530.

Dated: September 20, 2022.

Robert Houser,

Department Clearance Officer for PRA, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–20638 Filed 9–22–22; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

213th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 213th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held via a teleconference on Tuesday, October 18, 2022.

The meeting will begin at 12:30 p.m. and end at approximately 5:30 p.m. The purpose of the open meeting is for the members of the ERISA Advisory Council to discuss potential recommendations for the Secretary of Labor on the issues of: (1) Cybersecurity Issues Affecting Health Benefit Plans, and (2) Cybersecurity Insurance and Employee Benefit Plans. Descriptions of these topics are available on the ERISA Advisory Council's web page at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council.*

Instructions for public access to the teleconference meeting will be available on the ERISA Advisory Council's web page at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council* prior to the meeting.

Organizations or members of the public wishing to submit a written statement may do so on or before Tuesday, October 11, 2022, to Christine Donahue, Executive Secretary, ERISA Advisory Council. Statements should be transmitted electronically as an email attachment in text or pdf format to *donahue.christine@dol.gov.* Statements transmitted electronically that are included in the body of the email will not be accepted. Relevant statements received on or before Tuesday, October 11, 2022, will be included in the record of the meeting and made available through the Employee Benefits Security Administration Public Disclosure Room. No deletions, modifications, or redactions will be made to the statements received as they are public records.

Individuals or representatives of organizations wishing to address the ERISA Advisory Council should forward their requests to the Executive Secretary no later than Tuesday, October 11, 2022, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record.

Individuals who need special accommodations should contact the Executive Secretary no later than Tuesday, October 11, 2022, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641.

For more information about the meeting, contact the Executive Secretary at the address or telephone number above.

Signed at Washington, DC, this 13th day of September, 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2022–20599 Filed 9–22–22; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Geosciences (1755).

Date and Time:

October 20, 2022; 1 p.m.–2:30 p.m. EDT.

October 21, 2022; 1 p.m.–2:30 p.m. EDT.

Place: National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314/Virtual.

Meeting registration information is available on the GEO Advisory Committee website at *https://www.nsf.gov/geo/advisory.jsp.*

Type of meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Room C 8000, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; Phone 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight on support for geoscience research and education including atmospheric, geospace, earth, ocean and polar sciences.

Agenda

October 20, 2022

A panel of approximately 5 researchers from different science disciplines and members of the Advisory Committee will discuss the impacts of the post-Covid economic climate on research projects and field campaigns.

October 21, 2022

A panel of approximately 4 NSF program officers and members of the Advisory Committee will discuss the impacts of the post-Covid economic climate on NSF-supported research projects and field campaigns.

Dated: September 19, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–20590 Filed 9–22–22; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Committee on Equal Opportunities in Science and Engineering (CEOSE) (#1173).

Date and Time: October 27, 2022; 1:00 p.m.–5:30 p.m.; October 28, 2022; 10:00 a.m.–3:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314/Virtual.

Meeting Registration: Virtual attendance information will be forthcoming on the CEOSE website at *http://www.nsf.gov/od/oia/activities/ceose/index.jsp.*

Type of Meeting: Open.

Contact Person: Dr. Bernice Anderson, Senior Advisor and CEOSE Executive Secretary, Office of Integrative Activities (OIA), National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. Contact Information: 703–292–8040/*banderso@nsf.gov.*

Minutes: Meeting minutes and other information may be obtained from the CEOSE Executive Secretary at the above address or the website at *http://www.nsf.gov/od/oia/activities/ceose/index.jsp.*

Purpose of Meeting: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning broadening participation in science and engineering.

Agenda

Day 1

1:00 p.m.–1:15 p.m. Welcome and Introductions/Meeting Overview—CEOSE Chair

1:15 p.m.–1:45 p.m. NSF CEOSE Executive Liaison Report—OIA/Office Head

1:45 p.m.–2:00 p.m. Presentation: Report on the Future of EPSCoR—Co-Chair CEOSE Subcommittee

2:00 p.m.–3:00 p.m. NSB Briefing—NSB Leadership

3:00 p.m.–3:15 p.m. Break.

3:15 p.m.–4:30 p.m. Discussion: Focus and Recommendation(s) of the 2021–2022 CEOSE Report—CEOSE Vice Chair

4:30 p.m.–5:30 p.m. Discussion: CEOSE Liaison Reports—CEOSE AC Liaisons

Day 2

10:00 a.m.–11:00 a.m. Opening—CEOSE Chair, Presentation: Directorate for Technology, Innovation and Partnership (TIP)—TIP Leadership

11:00 a.m.–1:00 p.m. Working Lunch Session: 2021–2022 CESOE Report — CEOSE Work Groups

1:00 p.m.–1:40 p.m. CEOSE Discussion: Topics/Ideas to Share with Leadership—CEOSE Members

1:40 p.m.–2:00 p.m. Break.

2:00 p.m.–2:30 p.m. Discussion with NSF Leadership—NSF Director and NSF Chief Operating Officer

2:30 p.m.–3:15 p.m. Discussion: Federal Liaison Reports—CEOSE Federal Liaisons

3:15 p.m.–3:30 p.m. Announcements and Final Remarks

Dated: September 19, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–20589 Filed 9–22–22; 8:45 am]

BILLING CODE 7555–01–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: October 3, at 9:30 a.m.; October 4, 2022, at 9:00 a.m.

PLACE: Potomac, MD.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Monday, October 3, at 9:30 a.m.; Tuesday, October 4, 2022, at 9:00 a.m.

1. Strategic and Operational Items.
2. Financial and Personnel Items.
3. Administrative Items.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Secretary.

[FR Doc. 2022–20767 Filed 9–21–22; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95822; File No. SR–NYSE–2022–44]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.10

September 19, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 16, 2022, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.10 (Clearly Erroneous

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Executions). 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 purpose of the proposed rule change is to amend Rule 7.10 (Clearly Erroneous Executions). Specifically, the Exchange proposes to: (1) make the current clearly erroneous pilot program permanent; and (2) limit the circumstances where clearly erroneous review would continue to be available during the Core Trading Session,[4] when the LULD Plan to Address Extraordinary Market Volatility (the ''LULD Plan'') [5] already provides similar protections for trades occurring at prices that may be deemed erroneous. The Exchange believes that these changes are appropriate as the LULD Plan has been approved by the Commission on a permanent basis,[6] and in light of amendments to the LULD Plan, including changes to the applicable Price Bands [7] around the open and close of trading.

This proposed rule change is substantively identical to the rule change recently proposed by Cboe BZX, which the Commission approved on September 1, 2022.[8]

Proposal To Make the Clearly Erroneous Pilot Permanent

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 128 (Clearly Erroneous Executions) that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[9] In 2013, the Exchange adopted a provision to Rule 128 designed to address the operation of the Plan.[10] Finally, in 2014, the Exchange adopted two additional provisions to Rule 128 providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[11] Rule 128 is no longer applicable to any securities that trade on the Exchange and has been replaced with Rule 7.10, which is substantively identical to Rule 128.[12] These changes are currently scheduled to operate for a pilot period that would end at the close of business on October 20, 2022.[13]

When it originally approved the clearly erroneous pilot, the Commission explained that the changes were ''being implemented on a pilot basis so that the Commission and the Exchanges can monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.'' [14] In the 12 years since that time, the Exchange and other national securities exchanges have gained considerable experience in the operation of the rule, as amended on a pilot basis. Based on that experience, the Exchange believes that the program should be allowed to continue on a permanent basis so that equities market participants and investors can benefit from the increased certainty provided by the amended rule.

The clearly erroneous pilot was implemented following a severe disruption in the U.S. equities markets on May 6, 2010 (''Flash Crash'') to ''provide greater transparency and certainty to the process of breaking trades.'' [15] Largely, the pilot reduced the discretion of the Exchange, other national securities exchanges, and Financial Industry Regulatory Authority (''FINRA'') to deviate from the objective standards in their respective rules when dealing with potentially erroneous transactions. The pilot has thus helped afford greater certainty to member organizations and investors about when trades will be deemed erroneous pursuant to self-regulatory organization (''SRO'') rules and has provided a more transparent process for conducting such reviews. The Exchange proposes to make the current pilot permanent so that market participants can continue to benefit from the increased certainty afforded by the current rule.

Amendments to the Clearly Erroneous Rules

When the Participants to the LULD Plan filed to introduce the Limit Up-Limit Down (''LULD'') mechanism, itself a response to the Flash Crash, a handful of commenters noted the potential discordance between the clearly erroneous rules and the Price Bands used to limit the price at which trades would be permitted to be executed pursuant to the LULD Plan. For example, two commenters requested that the clearly erroneous rules be amended so the presumption would be that trades executed within the Price Bands would not be not subject to review.[16] While the Participants acknowledged that the potential to prevent clearly erroneous executions would be a ''key benefit'' of the LULD Plan, the Participants decided not to

[4] The term ''Core Trading Session'' is defined in Rule 7.34(a)(2).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (''Notice''); 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631) (''Amendment 18'').

[7] ''Price Bands'' refers to the term provided in Section V of the LULD Plan.

[8] *See* Securities Exchange Act Release No. 95658 (September 1, 2022) (SR-CboeBZX–2022–037).

[9] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NYSE–2010–47).

[10] *See* Securities Exchange Act Release No. 68804 (Feb. 1, 2013), 78 FR 8677 (Feb. 6, 2013) (SR–NYSE–2013–11).

[11] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–NYSE–2014–22).

[12] *See* Securities Exchange Act Release Nos. 82945 (March 26, 2019), 83 FR 13553, 13565 (March 29, 2019) (SR–NYSE–2017–36) and 85962 (May 29, 2019), 84 FR 26188, 26189 n.13 (June 5, 2019) (SR–NYSE–2019–05).

[13] *See* Securities Exchange Act Release No. 95301 (July 18, 2022), 87 FR 43921 (July 22, 2022) (SR–NYSE–2022–31).

[14] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NYSE–2010–47).

[15] *Id.*

[16] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (n. 33505).

amend the clearly erroneous rules at that time.[17] In the years since, industry feedback has continued to reflect a desire to eliminate the discordance between the LULD mechanism and the clearly erroneous rules so that market participants would have more certainty that trades executed with the Price Bands would stand. For example, the Equity Market Structure Advisory Committee (''EMSAC'') Market Quality Subcommittee included in its April 19, 2016 status report a preliminary recommendation that clearly erroneous rules be amended to conform to the Price Bands—*i.e.,* ''any trade that takes place within the band would stand and not be broken and trades outside the LU/LD bands would be eligible for the consideration of the Clearly Erroneous rules.'' [18]

The Exchange believes that it is important for there to be some mechanism to ensure that investors' orders are either not executed at clearly erroneous prices or are subsequently busted as needed to maintain a fair and orderly market. At the same time, the Exchange believes that the LULD Plan, as amended, would provide sufficient protection for trades executed during the Core Trading Session. Indeed, the LULD mechanism could be considered to offer superior protection as it prevents potentially erroneous trades from being executed in the first instance. After gaining experience with the LULD Plan, the Exchange now believes that it is appropriate to largely eliminate clearly erroneous review during Core Trading Hours when Price Bands are in effect. Thus, as proposed, trades executed within the Price Bands would stand, barring one of a handful of identified scenarios where such review may still be necessary for the protection of investors. The Exchange believes that this change would be beneficial for the U.S. equities markets as it would ensure that trades executed within the Price Bands are subject to clearly erroneous review in only rare circumstances, resulting in greater certainty for member organizations and investors.

The current LULD mechanism for addressing extraordinary market volatility is available solely during the Core Trading Session. Thus, trades during the Exchange's Early Trading Session [19] would not benefit from this protection and could ultimately be executed at prices that may be considered erroneous. For this reason, the Exchange proposes that transactions executed during the Early Trading Session would continue to be reviewable as clearly erroneous. Continued availability of the clearly erroneous rule during the Early Trading Session would therefore ensure that investors have appropriate recourse when erroneous trades are executed outside of the hours where similar protection can be provided by the LULD Plan. Further, the proposal is designed to eliminate the potential discordance between clearly erroneous review and LULD Price Bands, which does not exist outside of the Core Trading Session because the LULD Plan is not in effect. Thus, the Exchange believes that it is appropriate to continue to allow transactions to be eligible for clearly erroneous review if executed outside of the Core Trading Session.

On the other hand, there would be much more limited potential to request that a transaction be reviewed as potentially erroneous during the Core Trading Session. With the introduction of the LULD mechanism in 2013, clearly erroneous trades are largely prevented by the requirement that trades be executed within the Price Bands. In addition, in 2019, Amendment 18 to the LULD Plan eliminated double-wide Price Bands: (1) at the Open, and (2) at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[20] Due to these changes, the Exchange believes that the Price Bands would provide sufficient protection to investor orders such that clearly erroneous review would no longer be necessary during the Core Trading Session. As the Participants to the LULD Plan explained in Amendment 18: ''Broadly, the Limit Up-Limit Down mechanism prevents trades from happening at prices where one party to the trade would be considered 'aggrieved,' and thus could be viewed as an appropriate mechanism to supplant clearly erroneous rules.'' While the Participants also expressed concern that the Price Bands might be too wide to afford meaningful protection around the open and close of trading, amendments to the LULD Plan adopted in Amendment 18 narrowed Price Bands at these times in a manner that the Exchange believes is sufficient to ensure that investors' orders would be appropriately protected in the absence of clearly erroneous review. The Exchange therefore believes that it is appropriate to rely on the LULD mechanism as the primary means of preventing clearly erroneous trades during the Core Trading Session.

At the same time, the Exchange is cognizant that there may be limited circumstances where clearly erroneous review may continue to be appropriate, even during the Core Trading Session. Thus, the Exchange proposes to amend its clearly erroneous rules to enumerate the specific circumstances where such review would remain available during the course of the Core Trading Session, as follows. All transactions that fall outside of these specific enumerated exceptions would be ineligible for clearly erroneous review.

First, pursuant to proposed paragraph (c)(1)(A), a transaction executed during the Core Trading Session would continue to be eligible for clearly erroneous review if the transaction is not subject to the LULD Plan. In such case, the Numerical Guidelines set forth in paragraph (c)(2) of Rule 7.10 will be applicable to such NMS Stock. While the majority of securities traded on the Exchange would be subject to the LULD Plan, certain equity securities, such as rights and warrants, are explicitly excluded from the provisions of the LULD Plan and would therefore be eligible for clearly erroneous review instead.[21] Similarly, there are instances, such as the opening auction on the primary listing market,[22] where transactions are not ordinarily subject to the LULD Plan, or circumstances where a transaction that ordinarily would have been subject to the LULD Plan is not—due, for example, to some issue with processing the Price Bands. These transactions would continue to be eligible for clearly erroneous review, effectively ensuring that such review remains available as a backstop when the LULD Plan would not prevent executions from occurring at erroneous prices in the first instance.

Second, investors would also continue to be able to request review of transactions that resulted from certain systems issues pursuant to proposed paragraph (c)(1)(B). This limited exception would help to ensure that trades that should not have been executed would continue to be subject to clearly erroneous review. Specifically, as proposed, transactions executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(B) if the transaction is the result of an Exchange technology or

[17] *Id.*

[18] *See* EMSAC Market Quality Subcommittee, Recommendations for Rulemaking on Issues of Market Quality (November 29, 2016), available at *https://www.sec.gov/spotlight/emsac/recommendations-rulemaking-market-quality.pdf.*

[19] The term ''Early Trading Session'' is defined in Rule 7.34(a)(1).

[20] *See* Amendment 18, *supra* note 6.

[21] *See* Appendix A of the LULD Plan.

[22] The initial Reference Price used to calculate Price Bands is typically set by the Opening Price on the primary listing market. *See* Section V(B) of the LULD Plan.

systems issue that results in the transaction occurring outside of the applicable LULD Price Bands pursuant to paragraph (g). A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d) of this Rule, by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (''Percentage Parameters'').

Third, the Exchange proposes to narrowly allow for the review of transactions during the Core Trading Session when the Reference Price, described in proposed paragraph (d), is determined to be erroneous by an Officer of the Exchange. Specifically, a transaction executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(C) if the transaction involved, in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to the LULD Plan and resumes trading without an auction,[23] a Reference Price that is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. In such circumstances, the Exchange may use a different Reference Price pursuant to proposed paragraph (d)(2) of this Rule. A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the new Reference Price, described in paragraph (d)(2) below, by an amount that equals or exceeds the applicable Numerical Guidelines or Percentage Parameters, as applicable depending on whether the security is subject to the LULD Plan. Specifically, the Percentage Parameters would apply to all transactions except those in an NMS Stock that is not subject to the LULD Plan, as described in paragraph (c)(1)(A).

In the context of a corporate action or a new issue, there may be instances where the security's Reference Price is later determined by the Exchange to be erroneous (*e.g.,* because of a bad first trade for a new issue), and subsequent LULD Price Bands are calculated from that incorrect Reference Price. In determining whether the Reference Price is erroneous in such instances, the Exchange would generally look to see if such Reference Price clearly deviated from the theoretical value of the security. In such cases, the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing.[24] In the foregoing instances, the theoretical value of the security would be used as the new Reference Price when applying the Percentage Parameters under the LULD Plan (or Numerical Guidelines if the transaction is in an NMS Stock that is not subject to the LULD Plan) to determine whether executions would be cancelled as clearly erroneous.

The following illustrate the proposed application of the rule in the context of a corporate action or new issue:

Example 1:

1. ABCD is subject to a corporate action, 1 for 10 reverse split, and the previous day close was $5, but the new theoretical price based on the terms of the corporate action is $50.

2. The security opens at $5, with LULD bands at $4.50 × $5.50.

3. The bands will be calculated correctly but the security is trading at an erroneous price based on the valuation of the remaining outstanding shares.

4. The theoretical price of $50 would be used as the new Reference Price when applying LULD bands to determine if executions would be cancelled as clearly erroneous.

Example 2:

1. ABCD is subject to a corporate action, the company is doing a spin off where a new issue will be listed, BCDE. ABCD trades at $50, and the spinoff company is worth ⅕ of ABCD.

2. BCDE opens at $50 in the belief it is the same company as ABCD.

3. The theoretical values of the two companies are ABCD $40 and BCDE $10.

4. BCDE would be deemed to have had an incorrect Reference Price and the theoretical value of $10 would be used as the new Reference Price when applying the LULD Bands to determine if executions would be cancelled as clearly erroneous.

Example 3:

1. ABCD is an uplift from the OTC market, the prior days close on the OTC market was $20.

2. ABCD opens trading on the new listing exchange at $0.20 due to an erroneous order entry.

3. The new Reference Price to determine clearly erroneous executions would be $20, the theoretical value of the stock from where it was last traded.

In the context of the rare situation in which a security that enters a LULD Trading Pause and resumes trading without an auction (*i.e.,* reopens with quotations), the LULD Plan requires that the new Reference Price in this instance be established by using the mid-point of the best bid and offer (''BBO'') on the primary listing exchange at the reopening time.[25] This can result in a Reference Price and subsequent LULD Price Band calculation that is significantly away from the security's last traded or more relevant price, especially in less liquid names. In such rare instances, the Exchange is proposing to use a different Reference Price that is based on the prior LULD Band that triggered the Trading Pause, rather than the midpoint of the BBO.

The following example illustrates the proposed application of the rule in the context of a security that reopens without an auction:

Example 4:

1. ABCD stock is trading at $20, with LULD Bands at $18 × $22.

2. An incoming buy order causes the stock to enter a Limit State Trading Pause and then a Trading Pause at $22.

3. During the Trading Pause, the buy order causing the Trading Pause is cancelled.

4. At the end of the 5-minute halt, there is no crossed interest for an auction to occur, thus trading would resume on a quote.

5. Upon resumption, a quote that was available prior to the Trading Pause (*e.g.* a quote was resting on the book prior to the Trading Pause), is widely set at $10 × $90.

6. The Reference Price upon resumption is $50 (mid-point of BBO).

7. The SIP will use this Reference Price and publish LULD Bands of $45 × $55 (*i.e.,* far away from BBO prior to the halt).

8. The bands will be calculated correctly, but the $50 Reference Price is subsequently determined to be incorrect as the price clearly deviated from where it previously traded prior to the Trading Pause.

9. The new Reference Price would be $22 (*i.e.,* the last effective Price Band

[23] The Exchange notes that the ''resumption of trading without an auction'' provision of the proposed rule text applies only to securities that enter a Trading Pause pursuant to LULD and does not apply to a corporate action or new issue.

[24] Using transaction data reported to the FINRA OTC Reporting Facility, FINRA disseminates via the Trade Data Dissemination Service a final closing report for OTC equity securities for each business day that includes, among other things, each security's closing last sale price.

[25] *See* LULD Plan, Section I(U) and V(C)(1).

that was in a limit state before the Trading Pause), and the LULD Bands would be applied to determine if the executions should be cancelled as clearly erroneous.

In all of the foregoing situations, investors would be left with no remedy to request clearly erroneous review without the proposed carveouts in paragraph (c)(1)(C) because the trades occurred within the LULD Price Bands (albeit LULD Price Bands that were calculated from an erroneous Reference Price). The Exchange believes that removing the current ability for the Exchange to review in these narrow circumstances would lessen investor protections.

Numerical Guidelines

Today, paragraph (c)(1) defines the Numerical Guidelines that are used to determine if a transaction is deemed clearly erroneous during the Core Trading Session, or during the Early Trading Session. With respect to the Core Trading Session, trades are generally deemed clearly erroneous if the execution price differs from the Reference Price (*i.e.,* last sale) by 10% if the Reference Price is greater than $0.00 up to and including $25.00; 5% if the Reference Price is greater than $25.00 up to and including $50.00; and 3% if the Reference Price is greater than $50.00. Wider parameters are also used for reviews for Multi-Stock Events, as described in paragraph (c)(2). With respect to transactions in Leveraged ETF/ETN securities executed during the Core Trading Session or Early Trading Session, trades are deemed clearly erroneous if the execution price exceeds the Core Trading Session Numerical Guidelines multiplied by the leverage multiplier.

Given the changes described in this proposed rule change, the Exchange proposes to amend the way that the Numerical Guidelines are calculated during the Core Trading Session in the handful of instances where clearly erroneous review would continue to be available. Specifically, the Exchange would base these Numerical Guidelines, as applied to the circumstances described in paragraph (c)(1)(A), on the Percentage Parameters used to calculate Price Bands, as set forth in Appendix A to the LULD Plan. Without this change, a transaction that would otherwise stand if Price Bands were properly applied to the transaction may end up being subject to review and deemed clearly erroneous solely due to the fact that the Price Bands were not available due to a systems or other issue. The Exchange believes that it makes more sense to instead base the Price Bands on the same parameters as would otherwise determine whether the trade would have been allowed to execute within the Price Bands. The Exchange also proposes to modify the Numerical Guidelines applicable to leveraged ETF/ETN securities during the Core Trading Session. As noted above, the Numerical Guidelines will only be applicable to transactions eligible for review pursuant paragraph (c)(1)(A) (*i.e.,* to NMS Stocks that are not subject to the LULD Plan). As leveraged ETF/ETN securities are subject to LULD and thus the Percentage Parameters will be applicable during the Core Trading Session, the Exchange proposes to eliminate the Numerical Guidelines for leveraged ETF/ETN securities traded during the Core Trading Session. However, as no Price Bands are available outside of the Core Trading Session, the Exchange proposes to keep the existing Numerical Guidelines in place for transactions in leveraged ETF/ETN securities that occur during the Early Trading Session.

The Exchange also proposes to move existing paragraphs (c)(2), (c)(3), and (d) to proposed paragraph (c)(2)(B), (c)(2)(C), and (C)(2)(D), respectively, as Multi-Stock Events, Additional Factors, and Outlier Transactions will only be subject to review if those NMS Stocks are not subject to the LULD Plan or occur during the Early Trading Session. Proposed paragraph (c)(2)(B) is substantially similar to existing paragraph (c)(2) except for a change in rule reference to paragraph (c)(1) has been updated to paragraph (c)(1)(A). Further, given the proposal to move existing paragraph (c)(2) to paragraph (c)(2)(B), the Exchange also proposes to amend applicable rule references throughout paragraph (c)(2)(A). Finally, the Exchange proposes to update applicable rule references in paragraph (c)(2)(D) based on the above-described structural changes to the Rule.

Reference Price

As proposed, the Reference Price used would continue to be based on last sale and would be memorialized in proposed paragraph (d). Continuing to use the last sale as the Reference Price is necessary for operational efficiency as it may not be possible to perform a timely clearly erroneous review if doing so required computing the arithmetic mean price of eligible reported transactions over the past five minutes, as contemplated by the LULD Plan. While this means that there would still be some differences between the Price Bands and the clearly erroneous parameters, the Exchange believes that this difference is reasonable in light of the need to ensure timely review if clearly erroneous rules are invoked. The Exchange also proposes to allow for an alternate Reference Price to be used as prescribed in proposed paragraphs (d)(1), (2), and (3). Specifically, the Reference Price may be a value other than the consolidated last sale immediately prior to the execution(s) under review (1) in the case of Multi-Stock Events involving twenty or more securities, as described in paragraph (c)(2)(B) above, (2) in the case of an erroneous Reference Price, as described in paragraph (c)(1)(C) above,[26] or (3) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest, provided that such circumstances occurred during Early Trading Session or are eligible for review pursuant to paragraph (c)(1)(A).

Appeals

As described more fully below, the Exchange proposes to eliminate paragraph (f), System Disruption or Malfunction. Accordingly, the Exchange proposes to remove from paragraph (e)(2), Appeals, each reference to paragraph (f), and include language referencing proposed paragraph (g), Transactions Occurring Outside of the LULD Bands.

System Disruption or Malfunction

To conform with the structural changes descried above, the Exchange now proposes to remove paragraph (f), System Disruption or Malfunction, and proposes new paragraph (c)(1)(B). Specifically, as described in proposed paragraph (c)(1)(B), transactions occurring during the Core Trading Session that are executed outside of the LULD Price Bands due to an Exchange technology or system issue may be subject to clearly erroneous review pursuant to proposed paragraph (g). Proposed paragraph (c)(1)(B) further provides that a transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the

[26] As discussed above, in the case of (c)(1)(C)(1), the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing. In the case of (c)(1)(C)(2), the Reference Price will be the last effective Price Band that was in a limit state before the Trading Pause.

price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d), by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan.

Trade Nullification for UTP Securities That Are the Subject of Initial Public Offerings

Current paragraph (h) of Rule 7.10 provides different procedures for conducting clearly erroneous review in initial public offering (''IPO'') securities that are traded pursuant to unlisted trading privileges (''UTP'') after the initial opening of such IPO securities on the listing market. Specifically, this paragraph provides that a clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. The Exchange no longer believes that this provision is necessary as opening transactions on the Exchange following an IPO are subject to Price Bands pursuant to the LULD Plan. The Exchange therefore proposes to eliminate this provision in connection with the broader changes to clearly erroneous review during the Core Trading Session.

Securities Subject to Limit Up-Limit Down Plan

The Exchange proposes to renumber paragraph (i) to paragraph (h) based on the proposal to eliminate existing paragraph (h), and to rename the paragraph to provide for transactions occurring outside of LULD Price Bands. Given that proposed paragraph (c)(1) defines the LULD Plan, the Exchange also proposes to eliminate redundant language from proposed paragraph (h). Finally, the Exchange also proposes to update references to the LULD Plan and Price Bands so that they are uniform throughout the Rule and to update rule references throughout the paragraph to conform to the structural changes to the Rule described above.

Multi-Day Event and Trading Halts

The Exchange proposes to renumber paragraphs (j) and (k) to paragraphs (h) and (i), respectively, based on the proposal to eliminate existing paragraph (h). Additionally, the Exchange proposes to modify the text of both paragraphs to reference the Percentage Parameters as well as the Numerical Guidelines. Specifically, the existing text of proposed paragraphs (h) and (i) provides that any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. The Exchange proposes to amend the rule text to provide that any action taken in connection with this paragraph will be taken without regard to the Percentage Parameters or Numerical Guidelines set forth in this Rule, with the Percentage Parameters being applicable to an NMS Stock subject to the LULD Plan and the Numerical Guidelines being applicable to an NMS Stock not subject to the LULD Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[27] in general, and Section 6(b)(5) of the Act,[28] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

As explained in the purpose section of this proposed rule change, the current pilot was implemented following the Flash Crash to bring greater transparency to the process for conducting clearly erroneous reviews, and to help assure that the review process is based on clear, objective, and consistent rules across the U.S. equities markets. The Exchange believes that the amended clearly erroneous rules have been successful in that regard and have thus furthered fair and orderly markets. Specifically, the Exchange believes that the pilot has successfully ensured that such reviews are conducted based on objective and consistent standards across SROs and has therefore afforded greater certainty to member organizations and investors. The Exchange therefore believes that making the current pilot a permanent program is appropriate so that equities market participants can continue to reap the benefits of a clear, objective, and transparent process for conducting clearly erroneous reviews. In addition, the Exchange understands that the other U.S. equities exchanges and FINRA will also file largely identical proposals to make their respective clearly erroneous pilots permanent. The Exchange therefore believes that the proposed rule change would promote transparency and uniformity across markets concerning review of transactions as clearly erroneous and would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors, and the public interest.

Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to limit the availability of clearly erroneous review during the Core Trading Session. The Plan was approved by the Commission to operate on a permanent rather than pilot basis. As a number of market participants have noted, the LULD Plan provides protections that ensure that investors' orders are not executed at prices that may be considered clearly erroneous. Further, amendments to the LULD Plan approved in Amendment 18 serve to ensure that the Price Bands established by the LULD Plan are ''appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.'' [29] Thus, the Exchange believes that clearly erroneous review should only be necessary in very limited circumstances during the Core Trading Session. Specifically, such review would only be necessary in instances where a transaction was not subject to the LULD Plan, or was the result of some form of systems issue, as detailed in the purpose section of this proposed rule change. Additionally, in narrow circumstances where the transaction was subject to the LULD Plan, a clearly erroneous review would be available in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to LULD and resumes trading without an auction, where the Reference Price is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. Thus, eliminating clearly erroneous review in all other instances will serve to increase certainty for member organizations and investors that trades executed during the Core Trading Session would typically stand and would not be subject to review.

Given the fact that clearly erroneous review would largely be limited to transactions that were not subject to the LULD Plan, the Exchange also believes that it is necessary to change the parameters used to determine whether a trade is clearly erroneous. Specifically, due to the different parameters currently used for clearly erroneous review and for determining Price Bands, it is possible that a trade that would have been permitted to execute within the

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See* Amendment 18, *supra* note 6.

Price Bands would later be deemed clearly erroneous, if, for example, a systems issue prevented the dissemination of the Price Bands. The Exchange believes that this result is contrary to the principle that trades within the Price Bands should stand, and has the potential to cause investor confusion if trades that are properly executed within the applicable parameters described in the LULD Plan are later deemed erroneous. By using consistent parameters for clearly erroneous reviews conducted during the Core Trading Session and the calculation of the Price Bands, the Exchange believes that this change would also serve to promote greater certainty with regards to when trades may be deemed erroneous.

The Exchange believes that it is consistent with the protection of investors and the public interest to remove the current provision of the clearly erroneous rule dealing with UTP securities that are the subject of IPOs. This provision applies specifically to opening transactions on a non-listing market following an IPO on the listing market. As such, review under this paragraph is limited to trades conducted during the Core Trading Session. As previously addressed, trades executed during the Core Trading Session would generally not be subject to clearly erroneous review but would instead be protected by the Price Bands. The Exchange therefore no longer believes that this paragraph is necessary, as all trades subject to this provision today would either be subject to the LULD Plan, or, in the event of some systems or other issue, would be subject to the provisions that apply to transactions that are not adequately protected by the LULD Plan.

Finally, the proposed rule changes make organizational updates to the Exchange's Clearly Erroneous Execution Rule as well as minor updates and corrections to the Rule to improve readability and clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while also amending those rules to provide greater certainty to ETP Holders and investors that trades will stand if executed during the Core Trading Session where the LULD Plan provides adequate protection against trading at erroneous prices. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal and to the Cboe BZX proposal that the Commission recently approved.[30] Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[33] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[34] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on October 1, 2022. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to coordinate its implementation of the revised clearly erroneous execution rules with the other national securities exchanges and FINRA, and will help ensure consistency across the SROs.[35] For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[36]

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)[37] 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 SR–NYSE–2022–44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2022–44. 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

[30] *See supra* note 8.

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6).

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6)(iii).

[35] *See* SR–CboeBZX–2022–37 (July 8, 2022).

[36] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[37] 15 U.S.C. 78s(b)(2)(B).

public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2022–44 and should be submitted on or before October 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20592 Filed 9–22–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95827; File No. SR–NYSEARCA–2022–62]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.10–E

September 19, 2022

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 16, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.10E (Clearly Erroneous Executions). 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 purpose of the proposed rule change is to amend Rule 7.10–E (Clearly Erroneous Executions). Specifically, the Exchange proposes to: (1) make the current clearly erroneous pilot program permanent; and (2) limit the circumstances where clearly erroneous review would continue to be available during the Core Trading Session,[4] when the LULD Plan to Address Extraordinary Market Volatility (the ''LULD Plan'')[5] already provides similar protections for trades occurring at prices that may be deemed erroneous. The Exchange believes that these changes are appropriate as the LULD Plan has been approved by the Commission on a permanent basis,[6] and in light of amendments to the LULD Plan, including changes to the applicable Price Bands[7] around the open and close of trading.

This proposed rule change is substantively identical to the rule change recently proposed by Cboe BZX, which the Commission approved on September 1, 2022.[8]

Proposal To Make the Clearly Erroneous Pilot Permanent

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 7.10–E that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[9] In 2013, the Exchange adopted a provision designed to address the operation of the Plan.[10] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[11] These changes are currently scheduled to operate for a pilot period that would end at the close of business on October 20, 2022.[12]

When it originally approved the clearly erroneous pilot, the Commission explained that the changes were ''being implemented on a pilot basis so that the Commission and the Exchanges can monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.''[13] In the 12 years since that time, the Exchange and other national securities exchanges have gained considerable experience in the operation of the rule, as amended on a pilot basis. Based on that experience,

[38] 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] The term ''Core Trading Session'' is defined in Rule 7.34–E(a)(2).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (''Notice''); 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631) (''Amendment 18'').

[7] ''Price Bands'' refers to the term provided in Section V of the LULD Plan.

[8] *See* Securities Exchange Act Release No. 95658 (September 1, 2022) (SR–CboeBZX–2022–037).

[9] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NYSEArca–2010–58).

[10] *See* Securities Exchange Act Release No. 68809 (Feb. 1, 2013), 78 FR 9081 (Feb. 7, 2013) (SR–NYSEArca–2013–12).

[11] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–NYSEArca–2014–48).

[12] *See* Securities Exchange Act Release No. 95303 (July 18, 2022), 87 FR 43911 (July 22, 2022) (SR–NYSEArca–2022–42).

[13] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NYSEArca–2010–58).

the Exchange believes that the program should be allowed to continue on a permanent basis so that equities market participants and investors can benefit from the increased certainty provided by the amended rule.

The clearly erroneous pilot was implemented following a severe disruption in the U.S. equities markets on May 6, 2010 (''Flash Crash'') to ''provide greater transparency and certainty to the process of breaking trades.'' [14] Largely, the pilot reduced the discretion of the Exchange, other national securities exchanges, and Financial Industry Regulatory Authority (''FINRA'') to deviate from the objective standards in their respective rules when dealing with potentially erroneous transactions. The pilot has thus helped afford greater certainty to ETP Holders and investors about when trades will be deemed erroneous pursuant to self-regulatory organization (''SRO'') rules and has provided a more transparent process for conducting such reviews. The Exchange proposes to make the current pilot permanent so that market participants can continue to benefit from the increased certainty afforded by the current rule.

Amendments to the Clearly Erroneous Rules

When the Participants to the LULD Plan filed to introduce the Limit Up-Limit Down (''LULD'') mechanism, itself a response to the Flash Crash, a handful of commenters noted the potential discordance between the clearly erroneous rules and the Price Bands used to limit the price at which trades would be permitted to be executed pursuant to the LULD Plan. For example, two commenters requested that the clearly erroneous rules be amended so the presumption would be that trades executed within the Price Bands would not be not subject to review.[15] While the Participants acknowledged that the potential to prevent clearly erroneous executions would be a ''key benefit'' of the LULD Plan, the Participants decided not to amend the clearly erroneous rules at that time.[16] In the years since, industry feedback has continued to reflect a desire to eliminate the discordance between the LULD mechanism and the clearly erroneous rules so that market participants would have more certainty that trades executed with the Price Bands would stand. For example, the Equity Market Structure Advisory Committee (''EMSAC'') Market Quality Subcommittee included in its April 19, 2016 status report a preliminary recommendation that clearly erroneous rules be amended to conform to the Price Bands—*i.e.,* ''any trade that takes place within the band would stand and not be broken and trades outside the LU/LD bands would be eligible for the consideration of the Clearly Erroneous rules.'' [17]

The Exchange believes that it is important for there to be some mechanism to ensure that investors' orders are either not executed at clearly erroneous prices or are subsequently busted as needed to maintain a fair and orderly market. At the same time, the Exchange believes that the LULD Plan, as amended, would provide sufficient protection for trades executed during the Core Trading Session. Indeed, the LULD mechanism could be considered to offer superior protection as it prevents potentially erroneous trades from being executed in the first instance. After gaining experience with the LULD Plan, the Exchange now believes that it is appropriate to largely eliminate clearly erroneous review during Core Trading Hours when Price Bands are in effect. Thus, as proposed, trades executed within the Price Bands would stand, barring one of a handful of identified scenarios where such review may still be necessary for the protection of investors. The Exchange believes that this change would be beneficial for the U.S. equities markets as it would ensure that trades executed within the Price Bands are subject to clearly erroneous review in only rare circumstances, resulting in greater certainty for ETP Holders and investors.

The current LULD mechanism for addressing extraordinary market volatility is available solely during the Core Trading Session. Thus, trades during the Exchange's Early Trading Session [18] and Late Trading Session [19] would not benefit from this protection and could ultimately be executed at prices that may be considered erroneous. For this reason, the Exchange proposes that transactions executed during the Early and Late Trading Sessions would continue to be reviewable as clearly erroneous. Continued availability of the clearly erroneous rule during the Early and Late Trading Sessions would therefore ensure that investors have appropriate recourse when erroneous trades are executed outside of the hours where similar protection can be provided by the LULD Plan. Further, the proposal is designed to eliminate the potential discordance between clearly erroneous review and LULD Price Bands, which does not exist outside of the Core Trading Session because the LULD Plan is not in effect. Thus, the Exchange believes that it is appropriate to continue to allow transactions to be eligible for clearly erroneous review if executed outside of the Core Trading Session.

On the other hand, there would be much more limited potential to request that a transaction be reviewed as potentially erroneous during the Core Trading Session. With the introduction of the LULD mechanism in 2013, clearly erroneous trades are largely prevented by the requirement that trades be executed within the Price Bands. In addition, in 2019, Amendment 18 to the LULD Plan eliminated double-wide Price Bands: (1) at the Open, and (2) at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[20] Due to these changes, the Exchange believes that the Price Bands would provide sufficient protection to investor orders such that clearly erroneous review would no longer be necessary during the Core Trading Session. As the Participants to the LULD Plan explained in Amendment 18: ''Broadly, the Limit Up-Limit Down mechanism prevents trades from happening at prices where one party to the trade would be considered 'aggrieved,' and thus could be viewed as an appropriate mechanism to supplant clearly erroneous rules.'' While the Participants also expressed concern that the Price Bands might be too wide to afford meaningful protection around the open and close of trading, amendments to the LULD Plan adopted in Amendment 18 narrowed Price Bands at these times in a manner that the Exchange believes is sufficient to ensure that investors' orders would be appropriately protected in the absence of clearly erroneous review. The Exchange therefore believes that it is appropriate to rely on the LULD mechanism as the primary means of preventing clearly erroneous trades during the Core Trading Session.

At the same time, the Exchange is cognizant that there may be limited circumstances where clearly erroneous review may continue to be appropriate, even during the Core Trading Session.

[14] *Id.*

[15] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (n. 33505).

[16] *Id.*

[17] *See* EMSAC Market Quality Subcommittee, Recommendations for Rulemaking on Issues of Market Quality (November 29, 2016), available at *https://www.sec.gov/spotlight/emsac/emsac-recommendations-rulemaking-market-quality.pdf.*

[18] The term ''Early Trading Session'' is defined in Rule 7.34E(a)(1).

[19] The term ''Late Trading Session'' is defined in Rule 7.34E(a)(3).

[20] *See* Amendment 18, *supra* note 6.

Thus, the Exchange proposes to amend its clearly erroneous rules to enumerate the specific circumstances where such review would remain available during the course of the Core Trading Session, as follows. All transactions that fall outside of these specific enumerated exceptions would be ineligible for clearly erroneous review.

First, pursuant to proposed paragraph (c)(1)(A), a transaction executed during the Core Trading Session would continue to be eligible for clearly erroneous review if the transaction is not subject to the LULD Plan. In such case, the Numerical Guidelines set forth in paragraph (c)(2) will be applicable to such NMS Stock. While the majority of securities traded on the Exchange would be subject to the LULD Plan, certain equity securities, such as rights and warrants, are explicitly excluded from the provisions of the LULD Plan and would therefore be eligible for clearly erroneous review instead.[21] Similarly, there are instances, such as the opening auction on the primary listing market,[22] where transactions are not ordinarily subject to the LULD Plan, or circumstances where a transaction that ordinarily would have been subject to the LULD Plan is not—due, for example, to some issue with processing the Price Bands. These transactions would continue to be eligible for clearly erroneous review, effectively ensuring that such review remains available as a backstop when the LULD Plan would not prevent executions from occurring at erroneous prices in the first instance.

Second, investors would also continue to be able to request review of transactions that resulted from certain systems issues pursuant to proposed paragraph (c)(1)(B). This limited exception would help to ensure that trades that should not have been executed would continue to be subject to clearly erroneous review. Specifically, as proposed, transactions executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(B) if the transaction is the result of an Exchange technology or systems issue that results in the transaction occurring outside of the applicable LULD Price Bands pursuant to paragraph (g). A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d) of this Rule, by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (''Percentage Parameters'').

Third, the Exchange proposes to narrowly allow for the review of transactions during the Core Trading Session when the Reference Price, described in proposed paragraph (d), is determined to be erroneous by an Officer of the Exchange. Specifically, a transaction executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(C) if the transaction involved, in the case of (1) a corporate action or new issue, or (2) a security that enters a Trading Pause pursuant to the LULD Plan and resumes trading without an auction,[23] a Reference Price that is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. In such circumstances, the Exchange may use a different Reference Price pursuant to proposed paragraph (d)(2) of this Rule. A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the new Reference Price, described in paragraph (d)(2), by an amount that equals or exceeds the applicable Numerical Guidelines or Percentage Parameters, as applicable depending on whether the security is subject to the LULD Plan. Specifically, the Percentage Parameters would apply to all transactions except those in an NMS Stock that is not subject to the LULD Plan, as described in paragraph (c)(1)(A).

In the context of a corporate action or a new issue, there may be instances where the security's Reference Price is later determined by the Exchange to be erroneous (*e.g.,* because of a bad first trade for a new issue), and subsequent LULD Price Bands are calculated from that incorrect Reference Price. In determining whether the Reference Price is erroneous in such instances, the Exchange would generally look to see if such Reference Price clearly deviated from the theoretical value of the security. In such cases, the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing.[24] In the foregoing instances, the theoretical value of the security would be used as the new Reference Price when applying the Percentage Parameters under the LULD Plan (or Numerical Guidelines if the transaction is in an NMS Stock that is not subject to the LULD Plan) to determine whether executions would be cancelled as clearly erroneous.

The following examples illustrate the proposed application of the rule in the context of a corporate action or new issue:

Example 1:

1. ABCD is subject to a corporate action, 1 for 10 reverse split, and the previous day close was $5, but the new theoretical price based on the terms of the corporate action is $50.

2. The security opens at $5, with LULD bands at $4.50 × $5.50

3. The bands will be calculated correctly but the security is trading at an erroneous price based on the valuation of the remaining outstanding shares

4. The theoretical price of $50 would be used as the new Reference Price when applying LULD bands to determine if executions would be cancelled as clearly erroneous

Example 2:

1. ABCD is subject to a corporate action, the company is doing a spin off where a new issue will be listed, BCDE. ABCD trades at $50, and the spinoff company is worth ⅕ of ABCD

2. BCDE opens at $50 in the belief it is the same company as ABCD

3. The theoretical values of the two companies are ABCD $40 and BCDE $10

4. BCDE would be deemed to have had an incorrect Reference Price and the theoretical value of $10 would be used as the new Reference Price when applying the LULD Bands to determine if executions would be cancelled as clearly erroneous.

Example 3:

1. ABCD is an uplift from the OTC market, the prior days close on the OTC market was $20.

2. ABCD opens trading on the new listing exchange at $0.20 due to an erroneous order entry.

[21] *See* Appendix A of the LULD Plan.

[22] The initial Reference Price used to calculate Price Bands is typically set by the Opening Price on the primary listing market. *See* Section V(B) of the LULD Plan.

[23] The Exchange notes that the ''resumption of trading without an auction'' provision of the proposed rule text applies only to securities that enter a Trading Pause pursuant to LULD and does not apply to a corporate action or new issue.

[24] Using transaction data reported to the FINRA OTC Reporting Facility, FINRA disseminates via the Trade Data Dissemination Service a final closing report for OTC equity securities for each business day that includes, among other things, each security's closing last sale price.

3. The new Reference Price to determine clearly erroneous executions would be $20, the theoretical value of the stock from where it was last traded.

In the context of the rare situation in which a security that enters a LULD Trading Pause and resumes trading without an auction (*i.e.,* reopens with quotations), the LULD Plan requires that the new Reference Price in this instance be established by using the mid-point of the best bid and offer (''BBO'') on the primary listing exchange at the reopening time.[25] This can result in a Reference Price and subsequent LULD Price Band calculation that is significantly away from the security's last traded or more relevant price, especially in less liquid names. In such rare instances, the Exchange is proposing to use a different Reference Price that is based on the prior LULD Band that triggered the Trading Pause, rather than the midpoint of the BBO.

The following example illustrates the proposed application of the rule in the context of a security that reopens without an auction:

Example 4:

1. ABCD stock is trading at $20, with LULD Bands at $18 × $22.

2. An incoming buy order causes the stock to enter a Limit State Trading Pause and then a Trading Pause at $22.

3. During the Trading Pause, the buy order causing the Trading Pause is cancelled.

4. At the end of the 5-minute halt, there is no crossed interest for an auction to occur, thus trading would resume on a quote.

5. Upon resumption, a quote that was available prior to the Trading Pause (*e.g.* a quote was resting on the book prior to the Trading Pause), is widely set at $10 × $90.

6. The Reference Price upon resumption is $50 (mid-point of BBO).

7. The SIP will use this Reference Price and publish LULD Bands of $45 × $55 (*i.e.,* far away from BBO prior to the halt).

8. The bands will be calculated correctly, but the $50 Reference Price is subsequently determined to be incorrect as the price clearly deviated from where it previously traded prior to the Trading Pause.

9. The new Reference Price would be $22 (*i.e.,* the last effective Price Band that was in a limit state before the Trading Pause), and the LULD Bands would be applied to determine if the executions should be cancelled as clearly erroneous.

[25] *See* LULD Plan, Section I(U) and V(C)(1).

In all of the foregoing situations, investors would be left with no remedy to request clearly erroneous review without the proposed carveouts in paragraph (c)(1)(C) because the trades occurred within the LULD Price Bands (albeit LULD Price Bands that were calculated from an erroneous Reference Price). The Exchange believes that removing the current ability for the Exchange to review in these narrow circumstances would lessen investor protections.

Numerical Guidelines

Currently, paragraph (c)(1) defines the Numerical Guidelines that are used to determine if a transaction is deemed clearly erroneous during the Core Trading Session and during the Early and Late Trading Sessions. With respect to the Core Trading Session, trades are generally deemed clearly erroneous if the execution price differs from the Reference Price (*i.e.,* last sale) by 10% if the Reference Price is greater than $0.00 up to and including $25.00; 5% if the Reference Price is greater than $25.00 up to and including $50.00; and 3% if the Reference Price is greater than $50.00. Wider parameters are also used for reviews for Multi-Stock Events, as described in paragraph (c)(2). With respect to transactions in Leveraged ETF/ETN securities executed during the Core Trading Session or Early or Late Trading Session, trades are deemed clearly erroneous if the execution price exceeds the Core Trading Session Numerical Guidelines multiplied by the leverage multiplier.

The Exchange proposes to amend the way that the Numerical Guidelines are calculated during the Core Trading Session in the handful of instances where clearly erroneous review would continue to be available. Specifically, the Exchange would base these Numerical Guidelines, as applied to the circumstances described in paragraph (c)(1)(A), on the Percentage Parameters used to calculate Price Bands, as set forth in Appendix A to the LULD Plan. Without this change, a transaction that would otherwise stand if Price Bands were properly applied to the transaction may end up being subject to review and deemed clearly erroneous solely due to the fact that the Price Bands were not available due to a systems or other issue. The Exchange believes that it makes more sense to instead base the Price Bands on the same parameters as would otherwise determine whether the trade would have been allowed to execute within the Price Bands. The Exchange also proposes to modify the Numerical Guidelines applicable to leveraged ETF/ETN securities during the Core Trading Session. As noted above, the Numerical Guidelines will only be applicable to transactions eligible for review pursuant paragraph (c)(1)(A) (*i.e.,* to NMS Stocks that are not subject to the LULD Plan). As leveraged ETF/ETN securities are subject to LULD and thus the Percentage Parameters will be applicable during the Core Trading Session, the Exchange proposes to eliminate the Numerical Guidelines for leveraged ETF/ETN securities traded during the Core Trading Session. However, as no Price Bands are available outside of the Core Trading Session, the Exchange proposes to keep the existing Numerical Guidelines in place for transactions in leveraged ETF/ETN securities that occur during the Early and Late Trading Sessions.

The Exchange also proposes to move existing paragraphs (c)(2), (c)(3), and (d) to proposed paragraph (c)(2)(B), (c)(2)(C), and (C)(2)(D), respectively, as Multi-Stock Events, Additional Factors, and Outlier Transactions will only be subject to review if those NMS Stocks are not subject to the LULD Plan or occur during the Early or Late Trading Session. Proposed paragraph (c)(2)(B) is substantially similar to existing paragraph (c)(2) except for a change in rule reference to paragraph (c)(1) has been updated to paragraph (c)(1)(A). Further, given the proposal to move existing paragraph (c)(2) to paragraph (c)(2)(B), the Exchange also proposes to amend applicable rule references throughout paragraph (c)(2)(A). Finally, the Exchange proposes to update applicable rule references in paragraph (c)(2)(D) based on the above-described structural changes to the Rule.

Reference Price

As proposed, the Reference Price used would continue to be based on last sale and would be memorialized in proposed paragraph (d). Continuing to use the last sale as the Reference Price is necessary for operational efficiency as it may not be possible to perform a timely clearly erroneous review if doing so required computing the arithmetic mean price of eligible reported transactions over the past five minutes, as contemplated by the LULD Plan. While this means that there would still be some differences between the Price Bands and the clearly erroneous parameters, the Exchange believes that this difference is reasonable in light of the need to ensure timely review if clearly erroneous rules are invoked. The Exchange also proposes to allow for an alternate Reference Price to be used as prescribed in proposed paragraphs (d)(1), (2), and (3). Specifically, the Reference Price may be a value other than the

consolidated last sale immediately prior to the execution(s) under review (1) in the case of Multi-Stock Events involving twenty or more securities, as described in paragraph (c)(2)(B) above, (2) in the case of an erroneous Reference Price, as described in paragraph (c)(1)(C) above,[26] or (3) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest, provided that such circumstances occurred during Early or Late Trading Session or are eligible for review pursuant to paragraph (c)(1)(A).

Appeals

As described more fully below, the Exchange proposes to eliminate paragraph (f), System Disruption or Malfunction. Accordingly, the Exchange proposes to remove from paragraph (e)(2), Appeals, each reference to paragraph (f), and include language referencing proposed paragraph (g), Transactions Occurring Outside of the LULD Bands.

System Disruption or Malfunction

To conform with the structural changes descried above, the Exchange now proposes to remove paragraph (f), System Disruption or Malfunction, and proposes new paragraph (c)(1)(B). Specifically, as described in proposed paragraph (c)(1)(B), transactions occurring during the Core Trading Session that are executed outside of the LULD Price Bands due to an Exchange technology or system issue may be subject to clearly erroneous review pursuant to proposed paragraph (g). Proposed paragraph (c)(1)(B) further provides that a transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d), by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan.

Trade Nullification for UTP Securities That Are the Subject of Initial Public Offerings

Current paragraph (h) of Rule 7.10 provides different procedures for conducting clearly erroneous review in initial public offering (''IPO'') securities that are traded pursuant to unlisted trading privileges (''UTP'') after the initial opening of such IPO securities on the listing market. Specifically, this paragraph provides that a clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. The Exchange believes that this provision is no longer necessary as opening transactions on the Exchange following an IPO are subject to Price Bands pursuant to the LULD Plan. The Exchange therefore proposes to eliminate this provision in connection with the broader changes to clearly erroneous review during the Core Trading Session.

Securities Subject to Limit Up-Limit Down Plan

The Exchange proposes to renumber paragraph (i) to paragraph (h) based on the proposal to eliminate existing paragraph (h), and to rename the paragraph to provide for transactions occurring outside of LULD Price Bands. Given that proposed paragraph (c)(1) defines the LULD Plan, the Exchange also proposes to eliminate redundant language from proposed paragraph (h). Finally, the Exchange also proposes to update references to the LULD Plan and Price Bands so that they are uniform throughout the Rule and to update rule references throughout the paragraph to conform to the structural changes to the Rule described above.

Multi-Day Event and Trading Halts

The Exchange proposes to renumber paragraphs (j) and (k) to paragraphs (h) and (i), respectively, based on the proposal to eliminate existing paragraph (h). Additionally, the Exchange proposes to modify the text of both paragraphs to reference the Percentage Parameters as well as the Numerical Guidelines. Specifically, the existing text of proposed paragraphs (h) and (i) provides that any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. The Exchange proposes to amend the rule text to provide that any action taken in connection with this paragraph will be taken without regard to the Percentage Parameters or Numerical Guidelines set forth in this Rule, with the Percentage Parameters being applicable to an NMS Stock subject to the LULD Plan and the Numerical Guidelines being applicable to an NMS Stock not subject to the LULD Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[27] in general, and Section 6(b)(5) of the Act,[28] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

As explained in the purpose section of this proposed rule change, the current pilot was implemented following the Flash Crash to bring greater transparency to the process for conducting clearly erroneous reviews, and to help assure that the review process is based on clear, objective, and consistent rules across the U.S. equities markets. The Exchange believes that the amended clearly erroneous rules have been successful in that regard and have thus furthered fair and orderly markets. Specifically, the Exchange believes that the pilot has successfully ensured that such reviews are conducted based on objective and consistent standards across SROs and has therefore afforded greater certainty to ETP Holders and investors. The Exchange therefore believes that making the current pilot a permanent program is appropriate so that equities market participants can continue to reap the benefits of a clear, objective, and transparent process for conducting clearly erroneous reviews. In addition, the Exchange understands that the other U.S. equities exchanges and FINRA will also file largely identical proposals to make their respective clearly erroneous pilots permanent. The Exchange therefore believes that the proposed rule change would promote transparency and uniformity across markets concerning review of transactions as clearly erroneous and would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets,

[26] As discussed above, in the case of (c)(1)(C)(1), the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing. In the case of (c)(1)(C)(2), the Reference Price will be the last effective Price Band that was in a limit state before the Trading Pause.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

the protection of investors, and the public interest.

Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to limit the availability of clearly erroneous review during the Core Trading Session. The Plan was approved by the Commission to operate on a permanent rather than pilot basis. As a number of market participants have noted, the LULD Plan provides protections that ensure that investors' orders are not executed at prices that may be considered clearly erroneous. Further, amendments to the LULD Plan approved in Amendment 18 serve to ensure that the Price Bands established by the LULD Plan are ''appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.'' [29] Thus, the Exchange believes that clearly erroneous review should only be necessary in very limited circumstances during the Core Trading Session. Specifically, such review would only be necessary in instances where a transaction was not subject to the LULD Plan, or was the result of some form of systems issue, as detailed in the purpose section of this proposed rule change. Additionally, in narrow circumstances where the transaction was subject to the LULD Plan, a clearly erroneous review would be available in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to LULD and resumes trading without an auction, where the Reference Price is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. Thus, eliminating clearly erroneous review in all other instances will serve to increase certainty for ETP Holders and investors that trades executed during the Core Trading Session would typically stand and would not be subject to review.

Given the fact that clearly erroneous review would largely be limited to transactions that were not subject to the LULD Plan, the Exchange also believes that it is necessary to change the parameters used to determine whether a trade is clearly erroneous. Specifically, due to the different parameters currently used for clearly erroneous review and for determining Price Bands, it is possible that a trade that would have been permitted to execute within the Price Bands would later be deemed clearly erroneous, if, for example, a systems issue prevented the dissemination of the Price Bands. The Exchange believes that this result is contrary to the principle that trades within the Price Bands should stand, and has the potential to cause investor confusion if trades that are properly executed within the applicable parameters described in the LULD Plan are later deemed erroneous. By using consistent parameters for clearly erroneous reviews conducted during the Core Trading Session and the calculation of the Price Bands, the Exchange believes that this change would also serve to promote greater certainty with regards to when trades may be deemed erroneous.

The Exchange believes that it is consistent with the protection of investors and the public interest to remove the current provision of the clearly erroneous rule dealing with UTP securities that are the subject of IPOs. This provision applies specifically to opening transactions on a non-listing market following an IPO on the listing market. As such, review under this paragraph is limited to trades conducted during the Core Trading Session. As previously addressed, trades executed during the Core Trading Session would generally not be subject to clearly erroneous review but would instead be protected by the Price Bands. The Exchange therefore no longer believes that this paragraph is necessary, as all trades subject to this provision today would either be subject to the LULD Plan, or, in the event of some systems or other issue, would be subject to the provisions that apply to transactions that are not adequately protected by the LULD Plan.

Finally, the proposed rule changes make organizational updates to the Exchange's Clearly Erroneous Execution Rule as well as minor updates and corrections to the Rule to improve readability and clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while also amending those rules to provide greater certainty to ETP Holders and investors that trades will stand if executed during the Core Trading Session where the LULD Plan provides adequate protection against trading at erroneous prices. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal and to the Cboe BZX proposal that the Commission recently approved.[30] Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [31] and Rule 19b–4(f)(6) thereunder.[32] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) [33] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii) [34] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on October 1, 2022. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to coordinate its implementation of the revised clearly erroneous execution rules with the other national securities exchanges and FINRA, and will help ensure consistency across the SROs.[35] For this reason, the Commission hereby waives the 30-day operative delay and

[29] *See* Amendment 18, *supra* note 6.

[30] *See supra* note 8.

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b-4(f)(6).

[33] 17 CFR 240.19b-4(f)(6).

[34] 17 CFR 240.19b-4(f)(6)(iii).

[35] *See* SR-CboeBZX–2022–37 (July 8, 2022).

designates the proposed rule change as operative upon filing.[36]

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)[37] 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 SR–NYSEARCA–2022–62 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2022–62. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2022–62 and should be submitted on or before October 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Deputy Secretary.

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[36] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[37] 15 U.S.C. 78s(b)(2)(B).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95825; File No. SR–NYSECHX–2022–21]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.10

September 19, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 16, 2022, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.10 (Clearly Erroneous Executions). 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 purpose of the proposed rule change is to amend Rule 7.10 (Clearly Erroneous Executions). Specifically, the Exchange proposes to: (1) make the current clearly erroneous pilot program permanent; and (2) limit the circumstances where clearly erroneous review would continue to be available during the Core Trading Session,[4] when the LULD Plan to Address Extraordinary Market Volatility (the ''LULD Plan'')[5] already provides similar protections for trades occurring at prices that may be deemed erroneous. The Exchange believes that these changes are appropriate as the LULD Plan has been approved by the Commission on a permanent basis,[6] and in light of amendments to the LULD Plan, including changes to the applicable Price Bands[7] around the open and close of trading.

This proposed rule change is substantively identical to the rule change recently proposed by Cboe BZX, which the Commission approved on September 1, 2022.[8]

Proposal To Make the Clearly Erroneous Pilot Permanent

On September 10, 2010, the Commission approved, on a pilot basis,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''Core Trading Session'' is defined in Rule 7.34(a)(2).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (''Notice''); 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631) (''Amendment 18'').

[7] ''Price Bands'' refers to the term provided in Section V of the LULD Plan.

[8] *See* Securities Exchange Act Release No. 95658 (September 1, 2022) (SR–CboeBZX–2022–037).

changes to Article 20, Rule 10 that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[9] In 2013, the Exchange adopted a provision designed to address the operation of the Plan.[10] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[11] These changes are currently scheduled to operate for a pilot period that would end at the close of business on October 20, 2022.[12]

When it originally approved the clearly erroneous pilot, the Commission explained that the changes were ''being implemented on a pilot basis so that the Commission and the Exchanges can monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.'' [13] In the 12 years since that time, the Exchange and other national securities exchanges have gained considerable experience in the operation of the rule, as amended on a pilot basis. Based on that experience, the Exchange believes that the program should be allowed to continue on a permanent basis so that equities market participants and investors can benefit from the increased certainty provided by the amended rule.

The clearly erroneous pilot was implemented following a severe disruption in the U.S. equities markets on May 6, 2010 (''Flash Crash'') to ''provide greater transparency and certainty to the process of breaking trades.'' [14] Largely, the pilot reduced the discretion of the Exchange, other national securities exchanges, and Financial Industry Regulatory Authority (''FINRA'') to deviate from the objective standards in their respective rules when dealing with potentially erroneous transactions. The pilot has thus helped afford greater certainty to Participants and investors about when trades will be deemed erroneous pursuant to self-regulatory organization (''SRO'') rules and has provided a more transparent process for conducting such reviews. The Exchange proposes to make the current pilot permanent so that market participants can continue to benefit from the increased certainty afforded by the current rule.

Amendments to the Clearly Erroneous Rules

When the Participants to the LULD Plan filed to introduce the Limit Up-Limit Down (''LULD'') mechanism, itself a response to the Flash Crash, a handful of commenters noted the potential discordance between the clearly erroneous rules and the Price Bands used to limit the price at which trades would be permitted to be executed pursuant to the LULD Plan. For example, two commenters requested that the clearly erroneous rules be amended so the presumption would be that trades executed within the Price Bands would not be not subject to review.[15] While the Participants acknowledged that the potential to prevent clearly erroneous executions would be a ''key benefit'' of the LULD Plan, the Participants decided not to amend the clearly erroneous rules at that time.[16] In the years since, industry feedback has continued to reflect a desire to eliminate the discordance between the LULD mechanism and the clearly erroneous rules so that market participants would have more certainty that trades executed with the Price Bands would stand. For example, the Equity Market Structure Advisory Committee (''EMSAC'') Market Quality Subcommittee included in its April 19, 2016 status report a preliminary recommendation that clearly erroneous rules be amended to conform to the Price Bands—*i.e.,* ''any trade that takes place within the band would stand and not be broken and trades outside the LU/LD bands would be eligible for the consideration of the Clearly Erroneous rules.'' [17]

The Exchange believes that it is important for there to be some mechanism to ensure that investors' orders are either not executed at clearly erroneous prices or are subsequently busted as needed to maintain a fair and orderly market. At the same time, the Exchange believes that the LULD Plan, as amended, would provide sufficient protection for trades executed during the Core Trading Session. Indeed, the LULD mechanism could be considered to offer superior protection as it prevents potentially erroneous trades from being executed in the first instance. After gaining experience with the LULD Plan, the Exchange now believes that it is appropriate to largely eliminate clearly erroneous review during Core Trading Hours when Price Bands are in effect. Thus, as proposed, trades executed within the Price Bands would stand, barring one of a handful of identified scenarios where such review may still be necessary for the protection of investors. The Exchange believes that this change would be beneficial for the U.S. equities markets as it would ensure that trades executed within the Price Bands are subject to clearly erroneous review in only rare circumstances, resulting in greater certainty for Participants and investors.

The current LULD mechanism for addressing extraordinary market volatility is available solely during the Core Trading Session. Thus, trades during the Exchange's Early Trading Session [18] and Late Trading Session [19] would not benefit from this protection and could ultimately be executed at prices that may be considered erroneous. For this reason, the Exchange proposes that transactions executed during the Early and Late Trading Sessions would continue to be

[9] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–CHX–2010–13).

[10] *See* Securities Exchange Act Release No. 68802 (Feb. 1, 2013), 78 FR 9092 (Feb. 7, 2013) (SR–CHX–2013–04).

[11] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–CHX–2014–06).

[12] *See* Securities Exchange Act Release No. 95320 (July 19, 2022), 87 FR 44165 (July 25, 2022) (SR–NYSECHX–2022–18). The current Pillar rule corresponding to Article 20, Rule 10 is Rule 7.10. *See* Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345 (October 16, 2019) (SR–NYSECHX–2019–08). Article 20, Rule 10 is no longer applicable to any securities that trade on the Exchange.

[13] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–CHX–2010–13).

[14] *Id.*

[15] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (n. 33505).

[16] *Id.*

[17] *See* EMSAC Market Quality Subcommittee, Recommendations for Rulemaking on Issues of Market Quality (November 29, 2016), available at *https://www.sec.gov//emsac/recommendations-rulemaking-market-quality.pdf.*

[18] The term ''Early Trading Session'' is defined in Rule 7.34(a)(1).

[19] The term ''Late Trading Session'' is defined in Rule 7.34(a)(3).

reviewable as clearly erroneous. Continued availability of the clearly erroneous rule during the Early and Late Trading Sessions would therefore ensure that investors have appropriate recourse when erroneous trades are executed outside of the hours where similar protection can be provided by the LULD Plan. Further, the proposal is designed to eliminate the potential discordance between clearly erroneous review and LULD Price Bands, which does not exist outside of the Core Trading Session because the LULD Plan is not in effect. Thus, the Exchange believes that it is appropriate to continue to allow transactions to be eligible for clearly erroneous review if executed outside of the Core Trading Session.

On the other hand, there would be much more limited potential to request that a transaction be reviewed as potentially erroneous during the Core Trading Session. With the introduction of the LULD mechanism in 2013, clearly erroneous trades are largely prevented by the requirement that trades be executed within the Price Bands. In addition, in 2019, Amendment 18 to the LULD Plan eliminated double-wide Price Bands: (1) at the Open, and (2) at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[20] Due to these changes, the Exchange believes that the Price Bands would provide sufficient protection to investor orders such that clearly erroneous review would no longer be necessary during the Core Trading Session. As the Participants to the LULD Plan explained in Amendment 18: ''Broadly, the Limit Up-Limit Down mechanism prevents trades from happening at prices where one party to the trade would be considered 'aggrieved,' and thus could be viewed as an appropriate mechanism to supplant clearly erroneous rules.'' While the Participants also expressed concern that the Price Bands might be too wide to afford meaningful protection around the open and close of trading, amendments to the LULD Plan adopted in Amendment 18 narrowed Price Bands at these times in a manner that the Exchange believes is sufficient to ensure that investors' orders would be appropriately protected in the absence of clearly erroneous review. The Exchange therefore believes that it is appropriate to rely on the LULD mechanism as the primary means of preventing clearly erroneous trades during the Core Trading Session.

At the same time, the Exchange is cognizant that there may be limited circumstances where clearly erroneous review may continue to be appropriate, even during the Core Trading Session. Thus, the Exchange proposes to amend its clearly erroneous rules to enumerate the specific circumstances where such review would remain available during the course of the Core Trading Session, as follows. All transactions that fall outside of these specific enumerated exceptions would be ineligible for clearly erroneous review.

First, pursuant to proposed paragraph (c)(1)(A), a transaction executed during the Core Trading Session would continue to be eligible for clearly erroneous review if the transaction is not subject to the LULD Plan. In such case, the Numerical Guidelines set forth in paragraph (c)(2) will be applicable to such NMS Stock. While the majority of securities traded on the Exchange would be subject to the LULD Plan, certain equity securities, such as rights and warrants, are explicitly excluded from the provisions of the LULD Plan and would therefore be eligible for clearly erroneous review instead.[21] Similarly, there are instances, such as the opening auction on the primary listing market,[22] where transactions are not ordinarily subject to the LULD Plan, or circumstances where a transaction that ordinarily would have been subject to the LULD Plan is not—due, for example, to some issue with processing the Price Bands. These transactions would continue to be eligible for clearly erroneous review, effectively ensuring that such review remains available as a backstop when the LULD Plan would not prevent executions from occurring at erroneous prices in the first instance.

Second, investors would also continue to be able to request review of transactions that resulted from certain systems issues pursuant to proposed paragraph (c)(1)(B). This limited exception would help to ensure that trades that should not have been executed would continue to be subject to clearly erroneous review. Specifically, as proposed, transactions executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(B) if the transaction is the result of an Exchange technology or systems issue that results in the transaction occurring outside of the applicable LULD Price Bands pursuant to paragraph (g). A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d) of this Rule, by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (''Percentage Parameters'').

Third, the Exchange proposes to narrowly allow for the review of transactions during the Core Trading Session when the Reference Price, described in proposed paragraph (d), is determined to be erroneous by an Officer of the Exchange. Specifically, a transaction executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(C) if the transaction involved, in the case of (1) a corporate action or new issue, or (2) a security that enters a Trading Pause pursuant to the LULD Plan and resumes trading without an auction,[23] a Reference Price that is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. In such circumstances, the Exchange may use a different Reference Price pursuant to proposed paragraph (d)(2) of this Rule. A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the new Reference Price, described in paragraph (d)(2), by an amount that equals or exceeds the applicable Numerical Guidelines or Percentage Parameters, as applicable depending on whether the security is subject to the LULD Plan. Specifically, the Percentage Parameters would apply to all transactions except those in an NMS Stock that is not subject to the LULD Plan, as described in paragraph (c)(1)(A).

In the context of a corporate action or a new issue, there may be instances where the security's Reference Price is later determined by the Exchange to be erroneous (*e.g.,* because of a bad first trade for a new issue), and subsequent LULD Price Bands are calculated from that incorrect Reference Price. In determining whether the Reference Price is erroneous in such instances, the Exchange would generally look to see if such Reference Price clearly deviated from the theoretical value of the security. In such cases, the Exchange would consider a number of factors to determine a new Reference Price that is

[20] *See* Amendment 18, *supra* note 6.

[21] *See* Appendix A of the LULD Plan.

[22] The initial Reference Price used to calculate Price Bands is typically set by the Opening Price on the primary listing market. *See* Section V(B) of the LULD Plan.

[23] The Exchange notes that the ''resumption of trading without an auction'' provision of the proposed rule text applies only to securities that enter a Trading Pause pursuant to LULD and does not apply to a corporate action or new issue.

based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing.[24] In the foregoing instances, the theoretical value of the security would be used as the new Reference Price when applying the Percentage Parameters under the LULD Plan (or Numerical Guidelines if the transaction is in an NMS Stock that is not subject to the LULD Plan) to determine whether executions would be cancelled as clearly erroneous.

The following examples illustrate the proposed application of the rule in the context of a corporate action or new issue:

Example 1:

1. ABCD is subject to a corporate action, 1 for 10 reverse split, and the previous day close was $5, but the new theoretical price based on the terms of the corporate action is $50.

2. The security opens at $5, with LULD bands at $4.50 × $5.50.

3. The bands will be calculated correctly but the security is trading at an erroneous price based on the valuation of the remaining outstanding shares.

4. The theoretical price of $50 would be used as the new Reference Price when applying LULD bands to determine if executions would be cancelled as clearly erroneous.

Example 2:

1. ABCD is subject to a corporate action, the company is doing a spin off where a new issue will be listed, BCDE. ABCD trades at $50, and the spinoff company is worth ⅕ of ABCD.

2. BCDE opens at $50 in the belief it is the same company as ABCD.

3. The theoretical values of the two companies are ABCD $40 and BCDE $10.

4. BCDE would be deemed to have had an incorrect Reference Price and the theoretical value of $10 would be used as the new Reference Price when applying the LULD Bands to determine if executions would be cancelled as clearly erroneous.

Example 3:

1. ABCD is an uplift from the OTC market, the prior days close on the OTC market was $20.

2. ABCD opens trading on the new listing exchange at $0.20 due to an erroneous order entry.

3. The new Reference Price to determine clearly erroneous executions would be $20, the theoretical value of the stock from where it was last traded.

In the context of the rare situation in which a security that enters a LULD Trading Pause and resumes trading without an auction (*i.e.,* reopens with quotations), the LULD Plan requires that the new Reference Price in this instance be established by using the mid-point of the best bid and offer (''BBO'') on the primary listing exchange at the reopening time.[25] This can result in a Reference Price and subsequent LULD Price Band calculation that is significantly away from the security's last traded or more relevant price, especially in less liquid names. In such rare instances, the Exchange is proposing to use a different Reference Price that is based on the prior LULD Band that triggered the Trading Pause, rather than the midpoint of the BBO.

The following example illustrates the proposed application of the rule in the context of a security that reopens without an auction:

Example 4:

1. ABCD stock is trading at $20, with LULD Bands at $18 × $22.

2. An incoming buy order causes the stock to enter a Limit State Trading Pause and then a Trading Pause at $22.

3. During the Trading Pause, the buy order causing the Trading Pause is cancelled.

4. At the end of the 5-minute halt, there is no crossed interest for an auction to occur, thus trading would resume on a quote.

5. Upon resumption, a quote that was available prior to the Trading Pause (*e.g.* a quote was resting on the book prior to the Trading Pause), is widely set at $10 × $90.

6. The Reference Price upon resumption is $50 (mid-point of BBO).

7. The SIP will use this Reference Price and publish LULD Bands of $45 × $55 (*i.e.,* far away from BBO prior to the halt).

8. The bands will be calculated correctly, but the $50 Reference Price is subsequently determined to be incorrect as the price clearly deviated from where it previously traded prior to the Trading Pause.

9. The new Reference Price would be $22 (*i.e.,* the last effective Price Band that was in a limit state before the Trading Pause), and the LULD Bands would be applied to determine if the executions should be cancelled as clearly erroneous.

In all of the foregoing situations, investors would be left with no remedy to request clearly erroneous review without the proposed carveouts in paragraph (c)(1)(C) because the trades occurred within the LULD Price Bands (albeit LULD Price Bands that were calculated from an erroneous Reference Price). The Exchange believes that removing the current ability for the Exchange to review in these narrow circumstances would lessen investor protections.

Numerical Guidelines

Currently, paragraph (c)(1) defines the Numerical Guidelines that are used to determine if a transaction is deemed clearly erroneous during the Core Trading Session and during the Early and Late Trading Sessions. With respect to the Core Trading Session, trades are generally deemed clearly erroneous if the execution price differs from the Reference Price (*i.e.,* last sale) by 10% if the Reference Price is greater than $0.00 up to and including $25.00; 5% if the Reference Price is greater than $25.00 up to and including $50.00; and 3% if the Reference Price is greater than $50.00. Wider parameters are also used for reviews for Multi-Stock Events, as described in paragraph (c)(2). With respect to transactions in Leveraged ETF/ETN securities executed during the Core Trading Session or Early or Late Trading Session, trades are deemed clearly erroneous if the execution price exceeds the Core Trading Session Numerical Guidelines multiplied by the leverage multiplier.

The Exchange proposes to amend the way that the Numerical Guidelines are calculated during the Core Trading Session in the handful of instances where clearly erroneous review would continue to be available. Specifically, the Exchange would base these Numerical Guidelines, as applied to the circumstances described in paragraph (c)(1)(A), on the Percentage Parameters used to calculate Price Bands, as set forth in Appendix A to the LULD Plan. Without this change, a transaction that would otherwise stand if Price Bands were properly applied to the transaction may end up being subject to review and deemed clearly erroneous solely due to the fact that the Price Bands were not available due to a systems or other issue. The Exchange believes that it makes more sense to instead base the Price Bands on the same parameters as would otherwise determine whether the trade would have been allowed to execute within the Price Bands. The Exchange also proposes to modify the

[24] Using transaction data reported to the FINRA OTC Reporting Facility, FINRA disseminates via the Trade Data Dissemination Service a final closing report for OTC equity securities for each business day that includes, among other things, each security's closing last sale price.

[25] *See* LULD Plan, Section I(U) and V(C)(1).

Numerical Guidelines applicable to leveraged ETF/ETN securities during the Core Trading Session. As noted above, the Numerical Guidelines will only be applicable to transactions eligible for review pursuant paragraph (c)(1)(A) (*i.e.,* to NMS Stocks that are not subject to the LULD Plan). As leveraged ETF/ETN securities are subject to LULD and thus the Percentage Parameters will be applicable during the Core Trading Session, the Exchange proposes to eliminate the Numerical Guidelines for leveraged ETF/ETN securities traded during the Core Trading Session. However, as no Price Bands are available outside of the Core Trading Session, the Exchange proposes to keep the existing Numerical Guidelines in place for transactions in leveraged ETF/ETN securities that occur during the Early and Late Trading Sessions.

The Exchange also proposes to move existing paragraphs (c)(2), (c)(3), and (d) to proposed paragraph (c)(2)(B), (c)(2)(C), and (C)(2)(D), respectively, as Multi-Stock Events, Additional Factors, and Outlier Transactions will only be subject to review if those NMS Stocks are not subject to the LULD Plan or occur during the Early or Late Trading Session. Proposed paragraph (c)(2)(B) is substantially similar to existing paragraph (c)(2) except for a change in rule reference to paragraph (c)(1) has been updated to paragraph (c)(1)(A). Further, given the proposal to move existing paragraph (c)(2) to paragraph (c)(2)(B), the Exchange also proposes to amend applicable rule references throughout paragraph (c)(2)(A). Finally, the Exchange proposes to update applicable rule references in paragraph (c)(2)(D) based on the above-described structural changes to the Rule.

Reference Price

As proposed, the Reference Price used would continue to be based on last sale and would be memorialized in proposed paragraph (d). Continuing to use the last sale as the Reference Price is necessary for operational efficiency as it may not be possible to perform a timely clearly erroneous review if doing so required computing the arithmetic mean price of eligible reported transactions over the past five minutes, as contemplated by the LULD Plan. While this means that there would still be some differences between the Price Bands and the clearly erroneous parameters, the Exchange believes that this difference is reasonable in light of the need to ensure timely review if clearly erroneous rules are invoked. The Exchange also proposes to allow for an alternate Reference Price to be used as prescribed in proposed paragraphs (d)(1), (2), and (3). Specifically, the Reference Price may be a value other than the consolidated last sale immediately prior to the execution(s) under review (1) in the case of Multi-Stock Events involving twenty or more securities, as described in paragraph (c)(2)(B) above, (2) in the case of an erroneous Reference Price, as described in paragraph (c)(1)(C) above,[26] or (3) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest, provided that such circumstances occurred during Early or Late Trading Session or are eligible for review pursuant to paragraph (c)(1)(A).

Appeals

As described more fully below, the Exchange proposes to eliminate paragraph (f), System Disruption or Malfunction. Accordingly, the Exchange proposes to remove from paragraph (e)(2), Appeals, each reference to paragraph (f), and include language referencing proposed paragraph (g), Transactions Occurring Outside of the LULD Bands.

System Disruption or Malfunction

To conform with the structural changes descried above, the Exchange now proposes to remove paragraph (f), System Disruption or Malfunction, and proposes new paragraph (c)(1)(B). Specifically, as described in proposed paragraph (c)(1)(B), transactions occurring during the Core Trading Session that are executed outside of the LULD Price Bands due to an Exchange technology or system issue may be subject to clearly erroneous review pursuant to proposed paragraph (g). Proposed paragraph (c)(1)(B) further provides that a transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d), by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan.

Trade Nullification for UTP Securities That are the Subject of Initial Public Offerings

Current paragraph (h) of Rule 7.10 provides different procedures for conducting clearly erroneous review in initial public offering (''IPO'') securities that are traded pursuant to unlisted trading privileges (''UTP'') after the initial opening of such IPO securities on the listing market. Specifically, this paragraph provides that a clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. The Exchange believes that this provision is no longer necessary as opening transactions on the Exchange following an IPO are subject to Price Bands pursuant to the LULD Plan. The Exchange therefore proposes to eliminate this provision in connection with the broader changes to clearly erroneous review during the Core Trading Session.

Securities Subject to Limit Up-Limit Down Plan

The Exchange proposes to renumber paragraph (i) to paragraph (h) based on the proposal to eliminate existing paragraph (h), and to rename the paragraph to provide for transactions occurring outside of LULD Price Bands. Given that proposed paragraph (c)(1) defines the LULD Plan, the Exchange also proposes to eliminate redundant language from proposed paragraph (h). Finally, the Exchange also proposes to update references to the LULD Plan and Price Bands so that they are uniform throughout the Rule and to update rule references throughout the paragraph to conform to the structural changes to the Rule described above.

Multi-Day Event and Trading Halts

The Exchange proposes to renumber paragraphs (j) and (k) to paragraphs (h) and (i), respectively, based on the proposal to eliminate existing paragraph (h). Additionally, the Exchange proposes to modify the text of both paragraphs to reference the Percentage Parameters as well as the Numerical Guidelines. Specifically, the existing text of proposed paragraphs (h) and (i) provides that any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. The

[26] As discussed above, in the case of (c)(1)(C)(1), the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing. In the case of (c)(1)(C)(2), the Reference Price will be the last effective Price Band that was in a limit state before the Trading Pause.

Exchange proposes to amend the rule text to provide that any action taken in connection with this paragraph will be taken without regard to the Percentage Parameters or Numerical Guidelines set forth in this Rule, with the Percentage Parameters being applicable to an NMS Stock subject to the LULD Plan and the Numerical Guidelines being applicable to an NMS Stock not subject to the LULD Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[27] in general, and Section 6(b)(5) of the Act,[28] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

As explained in the purpose section of this proposed rule change, the current pilot was implemented following the Flash Crash to bring greater transparency to the process for conducting clearly erroneous reviews, and to help assure that the review process is based on clear, objective, and consistent rules across the U.S. equities markets. The Exchange believes that the amended clearly erroneous rules have been successful in that regard and have thus furthered fair and orderly markets. Specifically, the Exchange believes that the pilot has successfully ensured that such reviews are conducted based on objective and consistent standards across SROs and has therefore afforded greater certainty to Participants and investors. The Exchange therefore believes that making the current pilot a permanent program is appropriate so that equities market participants can continue to reap the benefits of a clear, objective, and transparent process for conducting clearly erroneous reviews. In addition, the Exchange understands that the other U.S. equities exchanges and FINRA will also file largely identical proposals to make their respective clearly erroneous pilots permanent. The Exchange therefore believes that the proposed rule change would promote transparency and uniformity across markets concerning review of transactions as clearly erroneous and would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors, and the public interest.

Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to limit the availability of clearly erroneous review during the Core Trading Session. The Plan was approved by the Commission to operate on a permanent rather than pilot basis. As a number of market participants have noted, the LULD Plan provides protections that ensure that investors' orders are not executed at prices that may be considered clearly erroneous. Further, amendments to the LULD Plan approved in Amendment 18 serve to ensure that the Price Bands established by the LULD Plan are ''appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.'' [29] Thus, the Exchange believes that clearly erroneous review should only be necessary in very limited circumstances during the Core Trading Session. Specifically, such review would only be necessary in instances where a transaction was not subject to the LULD Plan, or was the result of some form of systems issue, as detailed in the purpose section of this proposed rule change. Additionally, in narrow circumstances where the transaction was subject to the LULD Plan, a clearly erroneous review would be available in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to LULD and resumes trading without an auction, where the Reference Price is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. Thus, eliminating clearly erroneous review in all other instances will serve to increase certainty for Participants and investors that trades executed during the Core Trading Session would typically stand and would not be subject to review.

Given the fact that clearly erroneous review would largely be limited to transactions that were not subject to the LULD Plan, the Exchange also believes that it is necessary to change the parameters used to determine whether a trade is clearly erroneous. Specifically, due to the different parameters currently used for clearly erroneous review and for determining Price Bands, it is possible that a trade that would have been permitted to execute within the Price Bands would later be deemed clearly erroneous, if, for example, a systems issue prevented the dissemination of the Price Bands. The Exchange believes that this result is contrary to the principle that trades within the Price Bands should stand, and has the potential to cause investor confusion if trades that are properly executed within the applicable parameters described in the LULD Plan are later deemed erroneous. By using consistent parameters for clearly erroneous reviews conducted during the Core Trading Session and the calculation of the Price Bands, the Exchange believes that this change would also serve to promote greater certainty with regards to when trades may be deemed erroneous.

The Exchange believes that it is consistent with the protection of investors and the public interest to remove the current provision of the clearly erroneous rule dealing with UTP securities that are the subject of IPOs. This provision applies specifically to opening transactions on a non-listing market following an IPO on the listing market. As such, review under this paragraph is limited to trades conducted during the Core Trading Session. As previously addressed, trades executed during the Core Trading Session would generally not be subject to clearly erroneous review but would instead be protected by the Price Bands. The Exchange therefore no longer believes that this paragraph is necessary, as all trades subject to this provision today would either be subject to the LULD Plan, or, in the event of some systems or other issue, would be subject to the provisions that apply to transactions that are not adequately protected by the LULD Plan.

Finally, the proposed rule changes make organizational updates to the Exchange's Clearly Erroneous Execution Rule as well as minor updates and corrections to the Rule to improve readability and clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while also amending those rules to provide greater certainty to Participants and investors that trades will stand if executed during the Core Trading Session where the LULD Plan provides adequate protection against trading at erroneous prices. The Exchange understands that the other national securities exchanges and FINRA will also file similar

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See* Amendment 18, *supra* note 6.

proposals, the substance of which are identical to this proposal and to the Cboe BZX proposal that the Commission recently approved.[30] Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[33] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[34] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on October 1, 2022. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to coordinate its implementation of the revised clearly erroneous execution rules with the other national securities exchanges and FINRA, and will help ensure consistency across the SROs.[35] For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[36]

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)[37] 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 SR–NYSECHX–2022–21 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–NYSECHX–2022–21. 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–NYSECHX–2022–21 and should be submitted on or before October 14,2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20594 Filed 9–22–22; 8:45 am]

BILLING CODE 8011–01–P

[30] *See supra* note 7.

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6).

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6)(iii).

[35] *See* SR–CboeBZX–2022–37 (July 8, 2022).

[36] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[37] 15 U.S.C. 78s(b)(2)(B).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95829; File No. SR–NYSENAT–2022–21]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule To Amend Rule 7.10

September 19, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 16, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.10 (Clearly Erroneous Executions). 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 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 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 purpose of the proposed rule change is to amend Rule 7.10 (Clearly Erroneous Executions). Specifically, the Exchange proposes to: (1) make the current clearly erroneous pilot program permanent; and (2) limit the circumstances where clearly erroneous review would continue to be available during the Core Trading Session,[4] when the LULD Plan to Address Extraordinary Market Volatility (the ''LULD Plan'') [5] already provides similar protections for trades occurring at prices that may be deemed erroneous. The Exchange believes that these changes are appropriate as the LULD Plan has been approved by the Commission on a permanent basis,[6] and in light of amendments to the LULD Plan, including changes to the applicable Price Bands [7] around the open and close of trading.

This proposed rule change is substantively identical to the rule change recently proposed by Cboe BZX, which the Commission approved on September 1, 2022.[8]

Proposal To Make the Clearly Erroneous Pilot Permanent

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 11.19 (Clearly Erroneous Executions) that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[9] In 2013, the Exchange adopted a provision designed to address the operation of the Plan.[10] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[11] Rule 11.19 is no longer applicable to any securities that trade on the Exchange and has been replaced with Rule 7.10, which is substantively identical to Rule 11.19.[12] These changes are currently scheduled to operate for a pilot period that would end at the close of business on October 20, 2022.[13]

When it originally approved the clearly erroneous pilot, the Commission explained that the changes were ''being implemented on a pilot basis so that the Commission and the Exchanges can monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.'' [14] In the 12 years since that time, the Exchange and other national securities exchanges have gained considerable experience in the operation of the rule, as amended on a pilot basis. Based on that experience, the Exchange believes that the program should be allowed to continue on a permanent basis so that equities market participants and investors can benefit from the increased certainty provided by the amended rule.

The clearly erroneous pilot was implemented following a severe disruption in the U.S. equities markets on May 6, 2010 (''Flash Crash'') to ''provide greater transparency and certainty to the process of breaking trades.'' [15] Largely, the pilot reduced the discretion of the Exchange, other national securities exchanges, and Financial Industry Regulatory Authority (''FINRA'') to deviate from the objective standards in their respective rules when dealing with potentially erroneous transactions. The pilot has thus helped afford greater certainty to ETP Holders and investors about when trades will be deemed erroneous pursuant to self-regulatory organization (''SRO'') rules and has provided a more transparent process for conducting such reviews. The Exchange proposes to make the current pilot permanent so that market participants can continue to benefit from the increased certainty afforded by the current rule.

Amendments to the Clearly Erroneous Rules

When the Participants to the LULD Plan filed to introduce the Limit Up-Limit Down (''LULD'') mechanism, itself a response to the Flash Crash, a handful of commenters noted the potential discordance between the clearly erroneous rules and the Price Bands used to limit the price at which trades would be permitted to be executed pursuant to the LULD Plan. For example, two commenters requested that the clearly erroneous rules be amended so the presumption would be that trades executed within the Price Bands would not be not subject to review.[16] While the Participants acknowledged that the potential to prevent clearly erroneous executions would be a ''key benefit'' of the LULD Plan, the Participants decided not to amend the clearly erroneous rules at that time.[17] In the years since, industry feedback has continued to reflect a desire to eliminate the discordance between the LULD mechanism and the clearly erroneous rules so that market participants would have more certainty that trades executed with the Price

[4] The term ''Core Trading Session'' is defined in Rule 7.34(a)(2).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (''Notice''); 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631) (''Amendment 18'').

[7] ''Price Bands'' refers to the term provided in Section V of the LULD Plan.

[8] *See* Securities Exchange Act Release No. 95658 (September 1, 2022) (SR-CboeBZX–2022–037).

[9] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NSX–2010–07).

[10] *See* Securities Exchange Act Release No. 68803 (Feb. 1, 2013), 78 FR 9078 (Feb. 7, 2013) (SR–NSX–2013–06).

[11] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–NSX–2014–08).

[12] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR–NYSENAT–2018–02).

[13] *See* Securities Exchange Act Release No. 95306 (July 18, 2022), 87 FR 43924 (July 22, 2022) (SR–NYSENAT–2022–13).

[14] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NSX–2010–07).

[15] *Id.*

[16] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (n. 33505).

[17] *Id.*

Bands would stand. For example, the Equity Market Structure Advisory Committee (''EMSAC'') Market Quality Subcommittee included in its April 19, 2016 status report a preliminary recommendation that clearly erroneous rules be amended to conform to the Price Bands—*i.e.,* ''any trade that takes place within the band would stand and not be broken and trades outside the LU/LD bands would be eligible for the consideration of the Clearly Erroneous rules.'' [18]

The Exchange believes that it is important for there to be some mechanism to ensure that investors' orders are either not executed at clearly erroneous prices or are subsequently busted as needed to maintain a fair and orderly market. At the same time, the Exchange believes that the LULD Plan, as amended, would provide sufficient protection for trades executed during the Core Trading Session. Indeed, the LULD mechanism could be considered to offer superior protection as it prevents potentially erroneous trades from being executed in the first instance. After gaining experience with the LULD Plan, the Exchange now believes that it is appropriate to largely eliminate clearly erroneous review during Core Trading Hours when Price Bands are in effect. Thus, as proposed, trades executed within the Price Bands would stand, barring one of a handful of identified scenarios where such review may still be necessary for the protection of investors. The Exchange believes that this change would be beneficial for the U.S. equities markets as it would ensure that trades executed within the Price Bands are subject to clearly erroneous review in only rare circumstances, resulting in greater certainty for ETP Holders and investors.

The current LULD mechanism for addressing extraordinary market volatility is available solely during the Core Trading Session. Thus, trades during the Exchange's Early Trading Session [19] and Late Trading Session [20] would not benefit from this protection and could ultimately be executed at prices that may be considered erroneous. For this reason, the Exchange proposes that transactions executed during the Early and Late Trading Sessions would continue to be reviewable as clearly erroneous. Continued availability of the clearly erroneous rule during the Early and Late Trading Sessions would therefore ensure that investors have appropriate recourse when erroneous trades are executed outside of the hours where similar protection can be provided by the LULD Plan. Further, the proposal is designed to eliminate the potential discordance between clearly erroneous review and LULD Price Bands, which does not exist outside of the Core Trading Session because the LULD Plan is not in effect. Thus, the Exchange believes that it is appropriate to continue to allow transactions to be eligible for clearly erroneous review if executed outside of the Core Trading Session.

On the other hand, there would be much more limited potential to request that a transaction be reviewed as potentially erroneous during the Core Trading Session. With the introduction of the LULD mechanism in 2013, clearly erroneous trades are largely prevented by the requirement that trades be executed within the Price Bands. In addition, in 2019, Amendment 18 to the LULD Plan eliminated double-wide Price Bands: (1) at the Open, and (2) at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[21] Due to these changes, the Exchange believes that the Price Bands would provide sufficient protection to investor orders such that clearly erroneous review would no longer be necessary during the Core Trading Session. As the Participants to the LULD Plan explained in Amendment 18: ''Broadly, the Limit Up-Limit Down mechanism prevents trades from happening at prices where one party to the trade would be considered 'aggrieved,' and thus could be viewed as an appropriate mechanism to supplant clearly erroneous rules.'' While the Participants also expressed concern that the Price Bands might be too wide to afford meaningful protection around the open and close of trading, amendments to the LULD Plan adopted in Amendment 18 narrowed Price Bands at these times in a manner that the Exchange believes is sufficient to ensure that investors' orders would be appropriately protected in the absence of clearly erroneous review. The Exchange therefore believes that it is appropriate to rely on the LULD mechanism as the primary means of preventing clearly erroneous trades during the Core Trading Session.

At the same time, the Exchange is cognizant that there may be limited circumstances where clearly erroneous review may continue to be appropriate, even during the Core Trading Session. Thus, the Exchange proposes to amend its clearly erroneous rules to enumerate the specific circumstances where such review would remain available during the course of the Core Trading Session, as follows. All transactions that fall outside of these specific enumerated exceptions would be ineligible for clearly erroneous review.

First, pursuant to proposed paragraph (c)(1)(A), a transaction executed during the Core Trading Session would continue to be eligible for clearly erroneous review if the transaction is not subject to the LULD Plan. In such case, the Numerical Guidelines set forth in paragraph (c)(2) will be applicable to such NMS Stock. While the majority of securities traded on the Exchange would be subject to the LULD Plan, certain equity securities, such as rights and warrants, are explicitly excluded from the provisions of the LULD Plan and would therefore be eligible for clearly erroneous review instead.[22] Similarly, there are instances, such as the opening auction on the primary listing market,[23] where transactions are not ordinarily subject to the LULD Plan, or circumstances where a transaction that ordinarily would have been subject to the LULD Plan is not—due, for example, to some issue with processing the Price Bands. These transactions would continue to be eligible for clearly erroneous review, effectively ensuring that such review remains available as a backstop when the LULD Plan would not prevent executions from occurring at erroneous prices in the first instance.

Second, investors would also continue to be able to request review of transactions that resulted from certain systems issues pursuant to proposed paragraph (c)(1)(B). This limited exception would help to ensure that trades that should not have been executed would continue to be subject to clearly erroneous review. Specifically, as proposed, transactions executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(B) if the transaction is the result of an Exchange technology or systems issue that results in the transaction occurring outside of the applicable LULD Price Bands pursuant to paragraph (g). A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that

[18] *See* EMSAC Market Quality Subcommittee, Recommendations for Rulemaking on Issues of Market Quality (November 29, 2016), available at *https://www.sec.gov/spotlight/emsac/recommendations-rulemaking-market-quality.pdf.*

[19] The term ''Early Trading Session'' is defined in Rule 7.34(a)(1).

[20] The term ''Late Trading Session'' is defined in Rule 7.34(a)(3).

[21] *See* Amendment 18, *supra* note 6.

[22] *See* Appendix A of the LULD Plan.

[23] The initial Reference Price used to calculate Price Bands is typically set by the Opening Price on the primary listing market. *See* Section V(B) of the LULD Plan.

is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d) of this Rule, by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (''Percentage Parameters'').

Third, the Exchange proposes to narrowly allow for the review of transactions during the Core Trading Session when the Reference Price, described in proposed paragraph (d), is determined to be erroneous by an Officer of the Exchange. Specifically, a transaction executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(C) if the transaction involved, in the case of (1) a corporate action or new issue, or (2) a security that enters a Trading Pause pursuant to the LULD Plan and resumes trading without an auction,[24] a Reference Price that is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. In such circumstances, the Exchange may use a different Reference Price pursuant to proposed paragraph (d)(2) of this Rule. A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the new Reference Price, described in paragraph (d)(2), by an amount that equals or exceeds the applicable Numerical Guidelines or Percentage Parameters, as applicable depending on whether the security is subject to the LULD Plan. Specifically, the Percentage Parameters would apply to all transactions except those in an NMS Stock that is not subject to the LULD Plan, as described in paragraph (c)(1)(A).

In the context of a corporate action or a new issue, there may be instances where the security's Reference Price is later determined by the Exchange to be erroneous (*e.g.,* because of a bad first trade for a new issue), and subsequent LULD Price Bands are calculated from that incorrect Reference Price. In determining whether the Reference Price is erroneous in such instances, the Exchange would generally look to see if such Reference Price clearly deviated from the theoretical value of the security. In such cases, the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing.[25] In the foregoing instances, the theoretical value of the security would be used as the new Reference Price when applying the Percentage Parameters under the LULD Plan (or Numerical Guidelines if the transaction is in an NMS Stock that is not subject to the LULD Plan) to determine whether executions would be cancelled as clearly erroneous.

The following examples illustrate the proposed application of the rule in the context of a corporate action or new issue:

Example 1:

1. ABCD is subject to a corporate action, 1 for 10 reverse split, and the previous day close was $5, but the new theoretical price based on the terms of the corporate action is $50.

2. The security opens at $5, with LULD bands at $4.50 × $5.50.

3. The bands will be calculated correctly but the security is trading at an erroneous price based on the valuation of the remaining outstanding shares.

4. The theoretical price of $50 would be used as the new Reference Price when applying LULD bands to determine if executions would be cancelled as clearly erroneous.

Example 2:

1. ABCD is subject to a corporate action, the company is doing a spin off where a new issue will be listed, BCDE. ABCD trades at $50, and the spinoff company is worth ⅕ of ABCD.

2. BCDE opens at $50 in the belief it is the same company as ABCD.

3. The theoretical values of the two companies are ABCD $40 and BCDE $10.

4. BCDE would be deemed to have had an incorrect Reference Price and the theoretical value of $10 would be used as the new Reference Price when applying the LULD Bands to determine if executions would be cancelled as clearly erroneous.

Example 3:

1. ABCD is an uplift from the OTC market, the prior days close on the OTC market was $20.

2. ABCD opens trading on the new listing exchange at $0.20 due to an erroneous order entry.

3. The new Reference Price to determine clearly erroneous executions would be $20, the theoretical value of the stock from where it was last traded.

In the context of the rare situation in which a security that enters a LULD Trading Pause and resumes trading without an auction (*i.e.,* reopens with quotations), the LULD Plan requires that the new Reference Price in this instance be established by using the mid-point of the best bid and offer (''BBO'') on the primary listing exchange at the reopening time.[26] This can result in a Reference Price and subsequent LULD Price Band calculation that is significantly away from the security's last traded or more relevant price, especially in less liquid names. In such rare instances, the Exchange is proposing to use a different Reference Price that is based on the prior LULD Band that triggered the Trading Pause, rather than the midpoint of the BBO.

The following example illustrates the proposed application of the rule in the context of a security that reopens without an auction:

Example 4:

1. ABCD stock is trading at $20, with LULD Bands at $18 × $22.

2. An incoming buy order causes the stock to enter a Limit State Trading Pause and then a Trading Pause at $22.

3. During the Trading Pause, the buy order causing the Trading Pause is cancelled.

4. At the end of the 5-minute halt, there is no crossed interest for an auction to occur, thus trading would resume on a quote.

5. Upon resumption, a quote that was available prior to the Trading Pause (*e.g.* a quote was resting on the book prior to the Trading Pause), is widely set at $10 × $90.

6. The Reference Price upon resumption is $50 (mid-point of BBO).

7. The SIP will use this Reference Price and publish LULD Bands of $45 × $55 (*i.e.,* far away from BBO prior to the halt).

8. The bands will be calculated correctly, but the $50 Reference Price is subsequently determined to be incorrect as the price clearly deviated from where it previously traded prior to the Trading Pause.

9. The new Reference Price would be $22 (*i.e.,* the last effective Price Band that was in a limit state before the Trading Pause), and the LULD Bands would be applied to determine if the executions should be cancelled as clearly erroneous.

In all of the foregoing situations, investors would be left with no remedy

[24] The Exchange notes that the ''resumption of trading without an auction'' provision of the proposed rule text applies only to securities that enter a Trading Pause pursuant to LULD and does not apply to a corporate action or new issue.

[25] Using transaction data reported to the FINRA OTC Reporting Facility, FINRA disseminates via the Trade Data Dissemination Service a final closing report for OTC equity securities for each business day that includes, among other things, each security's closing last sale price.

[26] *See* LULD Plan, Section I(U) and V(C)(1).

to request clearly erroneous review without the proposed carveouts in paragraph (c)(1)(C) because the trades occurred within the LULD Price Bands (albeit LULD Price Bands that were calculated from an erroneous Reference Price). The Exchange believes that removing the current ability for the Exchange to review in these narrow circumstances would lessen investor protections.

Numerical Guidelines

Currently, paragraph (c)(1) defines the Numerical Guidelines that are used to determine if a transaction is deemed clearly erroneous during the Core Trading Session and during the Early and Late Trading Sessions. With respect to the Core Trading Session, trades are generally deemed clearly erroneous if the execution price differs from the Reference Price (*i.e.,* last sale) by 10% if the Reference Price is greater than $0.00 up to and including $25.00; 5% if the Reference Price is greater than $25.00 up to and including $50.00; and 3% if the Reference Price is greater than $50.00. Wider parameters are also used for reviews for Multi-Stock Events, as described in paragraph (c)(2). With respect to transactions in Leveraged ETF/ETN securities executed during the Core Trading Session or Early or Late Trading Session, trades are deemed clearly erroneous if the execution price exceeds the Core Trading Session Numerical Guidelines multiplied by the leverage multiplier.

The Exchange proposes to amend the way that the Numerical Guidelines are calculated during the Core Trading Session in the handful of instances where clearly erroneous review would continue to be available. Specifically, the Exchange would base these Numerical Guidelines, as applied to the circumstances described in paragraph (c)(1)(A), on the Percentage Parameters used to calculate Price Bands, as set forth in Appendix A to the LULD Plan. Without this change, a transaction that would otherwise stand if Price Bands were properly applied to the transaction may end up being subject to review and deemed clearly erroneous solely due to the fact that the Price Bands were not available due to a systems or other issue. The Exchange believes that it makes more sense to instead base the Price Bands on the same parameters as would otherwise determine whether the trade would have been allowed to execute within the Price Bands. The Exchange also proposes to modify the Numerical Guidelines applicable to leveraged ETF/ETN securities during the Core Trading Session. As noted above, the Numerical Guidelines will only be applicable to transactions eligible for review pursuant paragraph (c)(1)(A) (*i.e.,* to NMS Stocks that are not subject to the LULD Plan). As leveraged ETF/ETN securities are subject to LULD and thus the Percentage Parameters will be applicable during the Core Trading Session, the Exchange proposes to eliminate the Numerical Guidelines for leveraged ETF/ETN securities traded during the Core Trading Session. However, as no Price Bands are available outside of the Core Trading Session, the Exchange proposes to keep the existing Numerical Guidelines in place for transactions in leveraged ETF/ETN securities that occur during the Early and Late Trading Sessions.

The Exchange also proposes to move existing paragraphs (c)(2), (c)(3), and (d) to proposed paragraph (c)(2)(B), (c)(2)(C), and (C)(2)(D), respectively, as Multi-Stock Events, Additional Factors, and Outlier Transactions will only be subject to review if those NMS Stocks are not subject to the LULD Plan or occur during the Early or Late Trading Session. Proposed paragraph (c)(2)(B) is substantially similar to existing paragraph (c)(2) except for a change in rule reference to paragraph (c)(1) has been updated to paragraph (c)(1)(A). Further, given the proposal to move existing paragraph (c)(2) to paragraph (c)(2)(B), the Exchange also proposes to amend applicable rule references throughout paragraph (c)(2)(A). Finally, the Exchange proposes to update applicable rule references in paragraph (c)(2)(D) based on the above-described structural changes to the Rule.

Reference Price

As proposed, the Reference Price used would continue to be based on last sale and would be memorialized in proposed paragraph (d). Continuing to use the last sale as the Reference Price is necessary for operational efficiency as it may not be possible to perform a timely clearly erroneous review if doing so required computing the arithmetic mean price of eligible reported transactions over the past five minutes, as contemplated by the LULD Plan. While this means that there would still be some differences between the Price Bands and the clearly erroneous parameters, the Exchange believes that this difference is reasonable in light of the need to ensure timely review if clearly erroneous rules are invoked. The Exchange also proposes to allow for an alternate Reference Price to be used as prescribed in proposed paragraphs (d)(1), (2), and (3). Specifically, the Reference Price may be a value other than the consolidated last sale immediately prior to the execution(s) under review (1) in the case of Multi-Stock Events involving twenty or more securities, as described in paragraph (c)(2)(B) above, (2) in the case of an erroneous Reference Price, as described in paragraph (c)(1)(C) above,[27] or (3) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest, provided that such circumstances occurred during Early or Late Trading Session or are eligible for review pursuant to paragraph (c)(1)(A).

Appeals

As described more fully below, the Exchange proposes to eliminate paragraph (f), System Disruption or Malfunction. Accordingly, the Exchange proposes to remove from paragraph (e)(2), Appeals, each reference to paragraph (f), and include language referencing proposed paragraph (g), Transactions Occurring Outside of the LULD Bands.

System Disruption or Malfunction

To conform with the structural changes described above, the Exchange now proposes to remove paragraph (f), System Disruption or Malfunction, and proposes new paragraph (c)(1)(B). Specifically, as described in proposed paragraph (c)(1)(B), transactions occurring during the Core Trading Session that are executed outside of the LULD Price Bands due to an Exchange technology or system issue may be subject to clearly erroneous review pursuant to proposed paragraph (g). Proposed paragraph (c)(1)(B) further provides that a transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d), by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan.

[27] As discussed above, in the case of (c)(1)(C)(1), the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing. In the case of (c)(1)(C)(2), the Reference Price will be the last effective Price Band that was in a limit state before the Trading Pause.

Trade Nullification for UTP Securities That Are the Subject of Initial Public Offerings

Current paragraph (h) of Rule 7.10 provides different procedures for conducting clearly erroneous review in initial public offering (''IPO'') securities that are traded pursuant to unlisted trading privileges (''UTP'') after the initial opening of such IPO securities on the listing market. Specifically, this paragraph provides that a clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. The Exchange believes that this provision is no longer necessary as opening transactions on the Exchange following an IPO are subject to Price Bands pursuant to the LULD Plan. The Exchange therefore proposes to eliminate this provision in connection with the broader changes to clearly erroneous review during the Core Trading Session.

Securities Subject to Limit Up-Limit Down Plan

The Exchange proposes to renumber paragraph (i) to paragraph (h) based on the proposal to eliminate existing paragraph (h), and to rename the paragraph to provide for transactions occurring outside of LULD Price Bands. Given that proposed paragraph (c)(1) defines the LULD Plan, the Exchange also proposes to eliminate redundant language from proposed paragraph (h). Finally, the Exchange also proposes to update references to the LULD Plan and Price Bands so that they are uniform throughout the Rule and to update rule references throughout the paragraph to conform to the structural changes to the Rule described above.

Multi-Day Event and Trading Halts

The Exchange proposes to renumber paragraphs (j) and (k) to paragraphs (h) and (i), respectively, based on the proposal to eliminate existing paragraph (h). Additionally, the Exchange proposes to modify the text of both paragraphs to reference the Percentage Parameters as well as the Numerical Guidelines. Specifically, the existing text of proposed paragraphs (h) and (i) provides that any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. The Exchange proposes to amend the rule text to provide that any action taken in connection with this paragraph will be taken without regard to the Percentage Parameters or Numerical Guidelines set forth in this Rule, with the Percentage Parameters being applicable to an NMS Stock subject to the LULD Plan and the Numerical Guidelines being applicable to an NMS Stock not subject to the LULD Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[28] in general, and Section 6(b)(5) of the Act,[29] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

As explained in the purpose section of this proposed rule change, the current pilot was implemented following the Flash Crash to bring greater transparency to the process for conducting clearly erroneous reviews, and to help assure that the review process is based on clear, objective, and consistent rules across the U.S. equities markets. The Exchange believes that the amended clearly erroneous rules have been successful in that regard and have thus furthered fair and orderly markets. Specifically, the Exchange believes that the pilot has successfully ensured that such reviews are conducted based on objective and consistent standards across SROs and has therefore afforded greater certainty to ETP Holders and investors. The Exchange therefore believes that making the current pilot a permanent program is appropriate so that equities market participants can continue to reap the benefits of a clear, objective, and transparent process for conducting clearly erroneous reviews. In addition, the Exchange understands that the other U.S. equities exchanges and FINRA will also file largely identical proposals to make their respective clearly erroneous pilots permanent. The Exchange therefore believes that the proposed rule change would promote transparency and uniformity across markets concerning review of transactions as clearly erroneous and would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors, and the public interest.

Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to limit the availability of clearly erroneous review during the Core Trading Session. The Plan was approved by the Commission to operate on a permanent rather than pilot basis. As a number of market participants have noted, the LULD Plan provides protections that ensure that investors' orders are not executed at prices that may be considered clearly erroneous. Further, amendments to the LULD Plan approved in Amendment 18 serve to ensure that the Price Bands established by the LULD Plan are ''appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.'' [30] Thus, the Exchange believes that clearly erroneous review should only be necessary in very limited circumstances during the Core Trading Session. Specifically, such review would only be necessary in instances where a transaction was not subject to the LULD Plan, or was the result of some form of systems issue, as detailed in the purpose section of this proposed rule change. Additionally, in narrow circumstances where the transaction was subject to the LULD Plan, a clearly erroneous review would be available in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to LULD and resumes trading without an auction, where the Reference Price is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. Thus, eliminating clearly erroneous review in all other instances will serve to increase certainty for ETP Holders and investors that trades executed during the Core Trading Session would typically stand and would not be subject to review.

Given the fact that clearly erroneous review would largely be limited to transactions that were not subject to the LULD Plan, the Exchange also believes that it is necessary to change the parameters used to determine whether a trade is clearly erroneous. Specifically, due to the different parameters currently used for clearly erroneous review and for determining Price Bands, it is possible that a trade that would have been permitted to execute within the Price Bands would later be deemed clearly erroneous, if, for example, a systems issue prevented the dissemination of the Price Bands. The Exchange believes that this result is contrary to the principle that trades within the Price Bands should stand,

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] *See* Amendment 18, *supra* note 6.

and has the potential to cause investor confusion if trades that are properly executed within the applicable parameters described in the LULD Plan are later deemed erroneous. By using consistent parameters for clearly erroneous reviews conducted during the Core Trading Session and the calculation of the Price Bands, the Exchange believes that this change would also serve to promote greater certainty with regards to when trades may be deemed erroneous.

The Exchange believes that it is consistent with the protection of investors and the public interest to remove the current provision of the clearly erroneous rule dealing with UTP securities that are the subject of IPOs. This provision applies specifically to opening transactions on a non-listing market following an IPO on the listing market. As such, review under this paragraph is limited to trades conducted during the Core Trading Session. As previously addressed, trades executed during the Core Trading Session would generally not be subject to clearly erroneous review but would instead be protected by the Price Bands. The Exchange therefore no longer believes that this paragraph is necessary, as all trades subject to this provision today would either be subject to the LULD Plan, or, in the event of some systems or other issue, would be subject to the provisions that apply to transactions that are not adequately protected by the LULD Plan.

Finally, the proposed rule changes make organizational updates to the Exchange's Clearly Erroneous Execution Rule as well as minor updates and corrections to the Rule to improve readability and clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while also amending those rules to provide greater certainty to ETP Holders and investors that trades will stand if executed during the Core Trading Session where the LULD Plan provides adequate protection against trading at erroneous prices. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal and to the Cboe BZX proposal that the Commission recently approved.[31] Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[32] and Rule 19b–4(f)(6) thereunder.[33] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[34] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[35] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on October 1, 2022. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to coordinate its implementation of the revised clearly erroneous execution rules with the other national securities exchanges and FINRA, and will help ensure consistency across the SROs.[36] For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[37]

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)[38] 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 SR–NYSENAT–2022–21 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–2022–21. 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

[31] *See supra* note 8.

[32] 15 U.S.C. 78s(b)(3)(A)(iii).

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6).

[35] 17 CFR 240.19b–4(f)(6)(iii).

[36] *See* SR–CboeBZX–2022–37 (July 8, 2022).

[37] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[38] 15 U.S.C. 78s(b)(2)(B).

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–2022–21 and should be submitted on or before October 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20596 Filed 9–22–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95820; File No. SR–NYSEARCA–2022–63]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

September 19, 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 September 16, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 Arca Equities Fees and Charges (''Fee Schedule'') to reflect the fee for Directed Orders routed 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 by the Exchange to an ATS. The Exchange proposes to implement the fee change effective September 16, 2022.[4]

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.''[5]

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.''[6] Indeed, equity trading is currently dispersed across 16 exchanges,[7] numerous alternative trading systems,[8] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 17% market share.[9] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of cash equities trading.[10]

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 because 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.[11] A Directed Order is a Limit Order[12] 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

[39] 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] The Exchange originally filed to amend the Fee Schedule on September 7, 2022 (SR–NYSEARCA–2022–60). SR–NYSEARCA–2022–60 was subsequently withdrawn and replaced by this filing.

[5] *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'').

[6] *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).

[7] *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.*

[8] *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.*

[9] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[10] *See id.*

[11] *See* Rule 7.31–E(f)(4). *See also* Securities Exchange Act Release No. 95428 (August 4, 2022), 87 FR 48738 (August 10, 2022) (SR–NYSEARCA–2022–25).

[12] A Limit Order is defined in Rule 7.31–E(a)(2) as an order to buy or sell a stated amount of a security at a specified price or better.

Force modifier of Day [13] or IOC [14] and are eligible to be designated for the Core Trading Session [15] only. Directed Orders that are the subject of this proposed rule change would be routed to OneChronos LLC (''OneChronos'').

In anticipation of the scheduled implementation of routing functionality to OneChronos,[16] 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 add new Section VI to the Fee Schedule titled ''Other Standard Rates—Routing (Per Share Price $1.00 or Above)'' and adopt a new bullet that would state ''No fee for Directed Orders routed to OneChronos LLC.'' With the proposed adoption of new Section VI., the Exchange proposes to renumber current Section VI. as Section VII. and current Section VII. as Section VIII. Additionally, the Exchange proposes to adopt a definition of the term ''Directed Orders'' under Section I. of the Fee Schedule. As proposed, ''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 believes that the Directed Order 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.

[13] Pursuant to Rule 7.31–E(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.

[14] Pursuant to Rule 7.31–E(b)(2), a Limit Order may be designated with an Immediate-or-Cancel (''IOC'') modifier.

[15] 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–E(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.

[16] *See https://www.nyse.com/publicdocs/nyse/notifications/trader-update/110000456275/OneChronos_August_2022_Trader_Update_Final.pdf.*

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[18] 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.'' [19]

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 Order functionality and 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 interest on the NYSE Arca Book.[20]

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.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4) and (5).

[19] *See supra* note 4.

[20] *See* Rule 7.31–E(f)(1).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[21] 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 of individual stocks for all types of orders, large and small.'' [22]

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 Order functionality and allow ETP Holders to evaluate its efficacy. The Directed Order functionality would be available to all ETP Holders and all ETP Holders that use Directed Order 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 Order 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 equally to all ETP Holders that choose to utilize the Directed Order 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 (*i.e.,* excluding auctions) is currently less than 10%. 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.

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) [23] of the Act and subparagraph (f)(2) of Rule 19b–4 [24] 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) [25] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2022–63 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2022–63. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2022–63, and should be submitted on or before October 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20591 Filed 9–22–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95823; File No. SR–NYSEAMER–2022–41]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.10E

September 19, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3]

[21] 15 U.S.C. 78f(b)(8).

[22] *See supra* note 4.

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(2).

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 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.

notice is hereby given that on September 16, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.10E (Clearly Erroneous Executions). 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 purpose of the proposed rule change is to amend Rule 7.10E (Clearly Erroneous Executions). Specifically, the Exchange proposes to: (1) make the current clearly erroneous pilot program permanent; and (2) limit the circumstances where clearly erroneous review would continue to be available during the Core Trading Session,[4] when the LULD Plan to Address Extraordinary Market Volatility (the ''LULD Plan'') [5] already provides similar protections for trades occurring at prices that may be deemed erroneous. The Exchange believes that these changes are appropriate as the LULD Plan has been approved by the Commission on a permanent basis,[6] and in light of amendments to the LULD Plan, including changes to the applicable Price Bands [7] around the open and close of trading.

This proposed rule change is substantively identical to the rule change recently proposed by Cboe BZX, which the Commission approved on September 1, 2022.[8]

Proposal To Make the Clearly Erroneous Pilot Permanent

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 7.10E that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.[9] In 2013, the Exchange adopted a provision designed to address the operation of the Plan.[10] Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.[11] These changes are currently scheduled to operate for a pilot period that would end at the close of business on October 20, 2022.[12]

When it originally approved the clearly erroneous pilot, the Commission explained that the changes were ''being implemented on a pilot basis so that the Commission and the Exchanges can monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.'' [13] In the 12 years since that time, the Exchange and other national securities exchanges have gained considerable experience in the operation of the rule, as amended on a pilot basis. Based on that experience, the Exchange believes that the program should be allowed to continue on a permanent basis so that equities market participants and investors can benefit from the increased certainty provided by the amended rule.

The clearly erroneous pilot was implemented following a severe disruption in the U.S. equities markets on May 6, 2010 (''Flash Crash'') to ''provide greater transparency and certainty to the process of breaking trades.'' [14] Largely, the pilot reduced the discretion of the Exchange, other national securities exchanges, and Financial Industry Regulatory Authority (''FINRA'') to deviate from the objective standards in their respective rules when dealing with potentially erroneous transactions. The pilot has thus helped afford greater certainty to ETP Holders and investors about when trades will be deemed erroneous pursuant to self-regulatory organization (''SRO'') rules and has provided a more transparent process for conducting such reviews. The Exchange proposes to make the current pilot permanent so that market participants can continue to benefit from the increased certainty afforded by the current rule.

Amendments to the Clearly Erroneous Rules

When the Participants to the LULD Plan filed to introduce the Limit Up-Limit Down (''LULD'') mechanism, itself a response to the Flash Crash, a handful of commenters noted the potential discordance between the clearly erroneous rules and the Price Bands used to limit the price at which trades would be permitted to be executed pursuant to the LULD Plan. For example, two commenters requested that the clearly erroneous rules be

[4] The term ''Core Trading Session'' is defined in Rule 7.34E(a)(2).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (''Notice''); 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631) (''Amendment 18'').

[7] ''Price Bands'' refers to the term provided in Section V of the LULD Plan.

[8] *See* Securities Exchange Act Release No. 95658 (September 1, 2022) (SR–CboeBZX–2022–037).

[9] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NYSEAmer–2010–60).

[10] *See* Securities Exchange Act Release No. 68801 (Feb. 1, 2013), 78 FR 8630 (Feb. 6, 2013) (SR–NYSEMKT–2013–11).

[11] *See* Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR–NYSEMKT–2014–37).

[12] *See* Securities Exchange Act Release No. 95302 (July 18, 2022), 87 FR 43926 (July 22, 2022) (SR–NYSEAMER–2022–32).

[13] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NYSEAmer–2010–60).

[14] *Id.*

amended so the presumption would be that trades executed within the Price Bands would not be not subject to review.[15] While the Participants acknowledged that the potential to prevent clearly erroneous executions would be a ''key benefit'' of the LULD Plan, the Participants decided not to amend the clearly erroneous rules at that time.[16] In the years since, industry feedback has continued to reflect a desire to eliminate the discordance between the LULD mechanism and the clearly erroneous rules so that market participants would have more certainty that trades executed with the Price Bands would stand. For example, the Equity Market Structure Advisory Committee (''EMSAC'') Market Quality Subcommittee included in its April 19, 2016 status report a preliminary recommendation that clearly erroneous rules be amended to conform to the Price Bands—*i.e.,* ''any trade that takes place within the band would stand and not be broken and trades outside the LU/LD bands would be eligible for the consideration of the Clearly Erroneous rules.'' [17]

The Exchange believes that it is important for there to be some mechanism to ensure that investors' orders are either not executed at clearly erroneous prices or are subsequently busted as needed to maintain a fair and orderly market. At the same time, the Exchange believes that the LULD Plan, as amended, would provide sufficient protection for trades executed during the Core Trading Session. Indeed, the LULD mechanism could be considered to offer superior protection as it prevents potentially erroneous trades from being executed in the first instance. After gaining experience with the LULD Plan, the Exchange now believes that it is appropriate to largely eliminate clearly erroneous review during Core Trading Hours when Price Bands are in effect. Thus, as proposed, trades executed within the Price Bands would stand, barring one of a handful of identified scenarios where such review may still be necessary for the protection of investors. The Exchange believes that this change would be beneficial for the U.S. equities markets as it would ensure that trades executed within the Price Bands are subject to clearly erroneous review in only rare circumstances, resulting in greater certainty for ETP Holders and investors.

The current LULD mechanism for addressing extraordinary market volatility is available solely during the Core Trading Session. Thus, trades during the Exchange's Early Trading Session [18] and Late Trading Session [19] would not benefit from this protection and could ultimately be executed at prices that may be considered erroneous. For this reason, the Exchange proposes that transactions executed during the Early and Late Trading Sessions would continue to be reviewable as clearly erroneous. Continued availability of the clearly erroneous rule during the Early and Late Trading Sessions would therefore ensure that investors have appropriate recourse when erroneous trades are executed outside of the hours where similar protection can be provided by the LULD Plan. Further, the proposal is designed to eliminate the potential discordance between clearly erroneous review and LULD Price Bands, which does not exist outside of the Core Trading Session because the LULD Plan is not in effect. Thus, the Exchange believes that it is appropriate to continue to allow transactions to be eligible for clearly erroneous review if executed outside of the Core Trading Session.

On the other hand, there would be much more limited potential to request that a transaction be reviewed as potentially erroneous during the Core Trading Session. With the introduction of the LULD mechanism in 2013, clearly erroneous trades are largely prevented by the requirement that trades be executed within the Price Bands. In addition, in 2019, Amendment 18 to the LULD Plan eliminated double-wide Price Bands: (1) at the Open, and (2) at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[20] Due to these changes, the Exchange believes that the Price Bands would provide sufficient protection to investor orders such that clearly erroneous review would no longer be necessary during the Core Trading Session. As the Participants to the LULD Plan explained in Amendment 18: ''Broadly, the Limit Up-Limit Down mechanism prevents trades from happening at prices where one party to the trade would be considered 'aggrieved,' and thus could be viewed as an appropriate mechanism to supplant clearly erroneous rules.'' While the Participants also expressed concern that the Price Bands might be too wide to afford meaningful protection around the open and close of trading, amendments to the LULD Plan adopted in Amendment 18 narrowed Price Bands at these times in a manner that the Exchange believes is sufficient to ensure that investors' orders would be appropriately protected in the absence of clearly erroneous review. The Exchange therefore believes that it is appropriate to rely on the LULD mechanism as the primary means of preventing clearly erroneous trades during the Core Trading Session.

At the same time, the Exchange is cognizant that there may be limited circumstances where clearly erroneous review may continue to be appropriate, even during the Core Trading Session. Thus, the Exchange proposes to amend its clearly erroneous rules to enumerate the specific circumstances where such review would remain available during the course of the Core Trading Session, as follows. All transactions that fall outside of these specific enumerated exceptions would be ineligible for clearly erroneous review.

First, pursuant to proposed paragraph (c)(1)(A), a transaction executed during the Core Trading Session would continue to be eligible for clearly erroneous review if the transaction is not subject to the LULD Plan. In such case, the Numerical Guidelines set forth in paragraph (c)(2) will be applicable to such NMS Stock. While the majority of securities traded on the Exchange would be subject to the LULD Plan, certain equity securities, such as rights and warrants, are explicitly excluded from the provisions of the LULD Plan and would therefore be eligible for clearly erroneous review instead.[21] Similarly, there are instances, such as the opening auction on the primary listing market,[22] where transactions are not ordinarily subject to the LULD Plan, or circumstances where a transaction that ordinarily would have been subject to the LULD Plan is not—due, for example, to some issue with processing the Price Bands. These transactions would continue to be eligible for clearly erroneous review, effectively ensuring that such review remains available as a backstop when the LULD Plan would not prevent executions from occurring at erroneous prices in the first instance.

Second, investors would also continue to be able to request review of

[15] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (n. 33505).

[16] *Id.*

[17] *See* EMSAC Market Quality Subcommittee, Recommendations for Rulemaking on Issues of Market Quality (November 29, 2016), available at *https://www.sec.gov//emsac/recommendations-rulemaking-market-quality.pdf.*

[18] The term ''Early Trading Session'' is defined in Rule 7.34E(a)(1).

[19] The term ''Late Trading Session'' is defined in Rule 7.34E(a)(3).

[20] *See* Amendment 18, *supra* note 6.

[21] *See* Appendix A of the LULD Plan.

[22] The initial Reference Price used to calculate Price Bands is typically set by the Opening Price on the primary listing market. *See* Section V(B) of the LULD Plan.

transactions that resulted from certain systems issues pursuant to proposed paragraph (c)(1)(B). This limited exception would help to ensure that trades that should not have been executed would continue to be subject to clearly erroneous review. Specifically, as proposed, transactions executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(B) if the transaction is the result of an Exchange technology or systems issue that results in the transaction occurring outside of the applicable LULD Price Bands pursuant to paragraph (g). A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d) of this Rule, by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (''Percentage Parameters'').

Third, the Exchange proposes to narrowly allow for the review of transactions during the Core Trading Session when the Reference Price, described in proposed paragraph (d), is determined to be erroneous by an Officer of the Exchange. Specifically, a transaction executed during the Core Trading Session would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(C) if the transaction involved, in the case of (1) a corporate action or new issue, or (2) a security that enters a Trading Pause pursuant to the LULD Plan and resumes trading without an auction,[23] a Reference Price that is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. In such circumstances, the Exchange may use a different Reference Price pursuant to proposed paragraph (d)(2) of this Rule. A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the new Reference Price, described in paragraph (d)(2), by an amount that equals or exceeds the applicable Numerical Guidelines or Percentage Parameters, as applicable depending on whether the security is subject to the LULD Plan. Specifically, the Percentage Parameters would apply to all transactions except those in an NMS Stock that is not subject to the LULD Plan, as described in paragraph (c)(1)(A).

In the context of a corporate action or a new issue, there may be instances where the security's Reference Price is later determined by the Exchange to be erroneous (*e.g.,* because of a bad first trade for a new issue), and subsequent LULD Price Bands are calculated from that incorrect Reference Price. In determining whether the Reference Price is erroneous in such instances, the Exchange would generally look to see if such Reference Price clearly deviated from the theoretical value of the security. In such cases, the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing.[24] In the foregoing instances, the theoretical value of the security would be used as the new Reference Price when applying the Percentage Parameters under the LULD Plan (or Numerical Guidelines if the transaction is in an NMS Stock that is not subject to the LULD Plan) to determine whether executions would be cancelled as clearly erroneous.

The following examples illustrate the proposed application of the rule in the context of a corporate action or new issue:

Example 1:

1. ABCD is subject to a corporate action, 1 for 10 reverse split, and the previous day close was $5, but the new theoretical price based on the terms of the corporate action is $50.

2. The security opens at $5, with LULD bands at $4.50 × $5.50.

3. The bands will be calculated correctly but the security is trading at an erroneous price based on the valuation of the remaining outstanding shares.

4. The theoretical price of $50 would be used as the new Reference Price when applying LULD bands to determine if executions would be cancelled as clearly erroneous.

Example 2:

1. ABCD is subject to a corporate action, the company is doing a spin off where a new issue will be listed, BCDE. ABCD trades at $50, and the spinoff company is worth ⅕ of ABCD.

2. BCDE opens at $50 in the belief it is the same company as ABCD.

3. The theoretical values of the two companies are ABCD $40 and BCDE $10.

4. BCDE would be deemed to have had an incorrect Reference Price and the theoretical value of $10 would be used as the new Reference Price when applying the LULD Bands to determine if executions would be cancelled as clearly erroneous.

Example 3:

1. ABCD is an uplift from the OTC market, the prior days close on the OTC market was $20.

2. ABCD opens trading on the new listing exchange at $0.20 due to an erroneous order entry.

3. The new Reference Price to determine clearly erroneous executions would be $20, the theoretical value of the stock from where it was last traded.

In the context of the rare situation in which a security that enters a LULD Trading Pause and resumes trading without an auction (*i.e.,* reopens with quotations), the LULD Plan requires that the new Reference Price in this instance be established by using the mid-point of the best bid and offer (''BBO'') on the primary listing exchange at the reopening time.[25] This can result in a Reference Price and subsequent LULD Price Band calculation that is significantly away from the security's last traded or more relevant price, especially in less liquid names. In such rare instances, the Exchange is proposing to use a different Reference Price that is based on the prior LULD Band that triggered the Trading Pause, rather than the midpoint of the BBO.

The following example illustrates the proposed application of the rule in the context of a security that reopens without an auction:

Example 4:

1. ABCD stock is trading at $20, with LULD Bands at $18 × $22.

2. An incoming buy order causes the stock to enter a Limit State Trading Pause and then a Trading Pause at $22.

3. During the Trading Pause, the buy order causing the Trading Pause is cancelled.

4. At the end of the 5-minute halt, there is no crossed interest for an auction to occur, thus trading would resume on a quote.

5. Upon resumption, a quote that was available prior to the Trading Pause (*e.g.* a quote was resting on the book prior to the Trading Pause), is widely set at $10 × $90.

[23] The Exchange notes that the ''resumption of trading without an auction'' provision of the proposed rule text applies only to securities that enter a Trading Pause pursuant to LULD and does not apply to a corporate action or new issue.

[24] Using transaction data reported to the FINRA OTC Reporting Facility, FINRA disseminates via the Trade Data Dissemination Service a final closing report for OTC equity securities for each business day that includes, among other things, each security's closing last sale price.

[25] *See* LULD Plan, Section I(U) and V(C)(1).

6. The Reference Price upon resumption is $50 (mid-point of BBO).

7. The SIP will use this Reference Price and publish LULD Bands of $45 × $55 (*i.e.,* far away from BBO prior to the halt).

8. The bands will be calculated correctly, but the $50 Reference Price is subsequently determined to be incorrect as the price clearly deviated from where it previously traded prior to the Trading Pause.

9. The new Reference Price would be $22 (*i.e.,* the last effective Price Band that was in a limit state before the Trading Pause), and the LULD Bands would be applied to determine if the executions should be cancelled as clearly erroneous.

In all of the foregoing situations, investors would be left with no remedy to request clearly erroneous review without the proposed carveouts in paragraph (c)(1)(C) because the trades occurred within the LULD Price Bands (albeit LULD Price Bands that were calculated from an erroneous Reference Price). The Exchange believes that removing the current ability for the Exchange to review in these narrow circumstances would lessen investor protections.

Numerical Guidelines

Currently, paragraph (c)(1) defines the Numerical Guidelines that are used to determine if a transaction is deemed clearly erroneous during the Core Trading Session and during the Early and Late Trading Sessions. With respect to the Core Trading Session, trades are generally deemed clearly erroneous if the execution price differs from the Reference Price (*i.e.,* last sale) by 10% if the Reference Price is greater than $0.00 up to and including $25.00; 5% if the Reference Price is greater than $25.00 up to and including $50.00; and 3% if the Reference Price is greater than $50.00. Wider parameters are also used for reviews for Multi-Stock Events, as described in paragraph (c)(2). With respect to transactions in Leveraged ETF/ETN securities executed during the Core Trading Session or Early or Late Trading Session, trades are deemed clearly erroneous if the execution price exceeds the Core Trading Session Numerical Guidelines multiplied by the leverage multiplier.

The Exchange proposes to amend the way that the Numerical Guidelines are calculated during the Core Trading Session in the handful of instances where clearly erroneous review would continue to be available. Specifically, the Exchange would base these Numerical Guidelines, as applied to the circumstances described in paragraph (c)(1)(A), on the Percentage Parameters used to calculate Price Bands, as set forth in Appendix A to the LULD Plan. Without this change, a transaction that would otherwise stand if Price Bands were properly applied to the transaction may end up being subject to review and deemed clearly erroneous solely due to the fact that the Price Bands were not available due to a systems or other issue. The Exchange believes that it makes more sense to instead base the Price Bands on the same parameters as would otherwise determine whether the trade would have been allowed to execute within the Price Bands. The Exchange also proposes to modify the Numerical Guidelines applicable to leveraged ETF/ETN securities during the Core Trading Session. As noted above, the Numerical Guidelines will only be applicable to transactions eligible for review pursuant paragraph (c)(1)(A) (*i.e.,* to NMS Stocks that are not subject to the LULD Plan). As leveraged ETF/ETN securities are subject to LULD and thus the Percentage Parameters will be applicable during the Core Trading Session, the Exchange proposes to eliminate the Numerical Guidelines for leveraged ETF/ETN securities traded during the Core Trading Session. However, as no Price Bands are available outside of the Core Trading Session, the Exchange proposes to keep the existing Numerical Guidelines in place for transactions in leveraged ETF/ETN securities that occur during the Early and Late Trading Sessions.

The Exchange also proposes to move existing paragraphs (c)(2), (c)(3), and (d) to proposed paragraph (c)(2)(B), (c)(2)(C), and (C)(2)(D), respectively, as Multi-Stock Events, Additional Factors, and Outlier Transactions will only be subject to review if those NMS Stocks are not subject to the LULD Plan or occur during the Early or Late Trading Session. Proposed paragraph (c)(2)(B) is substantially similar to existing paragraph (c)(2) except for a change in rule reference to paragraph (c)(1) has been updated to paragraph (c)(1)(A). Further, given the proposal to move existing paragraph (c)(2) to paragraph (c)(2)(B), the Exchange also proposes to amend applicable rule references throughout paragraph (c)(2)(A). Finally, the Exchange proposes to update applicable rule references in paragraph (c)(2)(D) based on the above-described structural changes to the Rule.

Reference Price

As proposed, the Reference Price used would continue to be based on last sale and would be memorialized in proposed paragraph (d). Continuing to use the last sale as the Reference Price is necessary for operational efficiency as it may not be possible to perform a timely clearly erroneous review if doing so required computing the arithmetic mean price of eligible reported transactions over the past five minutes, as contemplated by the LULD Plan. While this means that there would still be some differences between the Price Bands and the clearly erroneous parameters, the Exchange believes that this difference is reasonable in light of the need to ensure timely review if clearly erroneous rules are invoked. The Exchange also proposes to allow for an alternate Reference Price to be used as prescribed in proposed paragraphs (d)(1), (2), and (3). Specifically, the Reference Price may be a value other than the consolidated last sale immediately prior to the execution(s) under review (1) in the case of Multi-Stock Events involving twenty or more securities, as described in paragraph (c)(2)(B) above, (2) in the case of an erroneous Reference Price, as described in paragraph (c)(1)(C) above,[26] or (3) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest, provided that such circumstances occurred during Early or Late Trading Session or are eligible for review pursuant to paragraph (c)(1)(A).

Appeals

As described more fully below, the Exchange proposes to eliminate paragraph (f), System Disruption or Malfunction. Accordingly, the Exchange proposes to remove from paragraph (e)(2), Appeals, each reference to paragraph (f), and include language referencing proposed paragraph (g), Transactions Occurring Outside of the LULD Bands.

System Disruption or Malfunction

To conform with the structural changes descried above, the Exchange now proposes to remove paragraph (f), System Disruption or Malfunction, and

[26] As discussed above, in the case of (c)(1)(C)(1), the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing. In the case of (c)(1)(C)(2), the Reference Price will be the last effective Price Band that was in a limit state before the Trading Pause.

proposes new paragraph (c)(1)(B). Specifically, as described in proposed paragraph (c)(1)(B), transactions occurring during the Core Trading Session that are executed outside of the LULD Price Bands due to an Exchange technology or system issue may be subject to clearly erroneous review pursuant to proposed paragraph (g). Proposed paragraph (c)(1)(B) further provides that a transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d), by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan.

Trade Nullification for UTP Securities That Are the Subject of Initial Public Offerings

Current paragraph (h) of Rule 7.10 provides different procedures for conducting clearly erroneous review in initial public offering (''IPO'') securities that are traded pursuant to unlisted trading privileges (''UTP'') after the initial opening of such IPO securities on the listing market. Specifically, this paragraph provides that a clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. The Exchange believes that this provision is no longer necessary as opening transactions on the Exchange following an IPO are subject to Price Bands pursuant to the LULD Plan. The Exchange therefore proposes to eliminate this provision in connection with the broader changes to clearly erroneous review during the Core Trading Session.

Securities Subject to Limit Up-Limit Down Plan

The Exchange proposes to renumber paragraph (i) to paragraph (h) based on the proposal to eliminate existing paragraph (h), and to rename the paragraph to provide for transactions occurring outside of LULD Price Bands. Given that proposed paragraph (c)(1) defines the LULD Plan, the Exchange also proposes to eliminate redundant language from proposed paragraph (h). Finally, the Exchange also proposes to update references to the LULD Plan and Price Bands so that they are uniform throughout the Rule and to update rule references throughout the paragraph to conform to the structural changes to the Rule described above.

Multi-Day Event and Trading Halts

The Exchange proposes to renumber paragraphs (j) and (k) to paragraphs (h) and (i), respectively, based on the proposal to eliminate existing paragraph (h). Additionally, the Exchange proposes to modify the text of both paragraphs to reference the Percentage Parameters as well as the Numerical Guidelines. Specifically, the existing text of proposed paragraphs (h) and (i) provides that any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. The Exchange proposes to amend the rule text to provide that any action taken in connection with this paragraph will be taken without regard to the Percentage Parameters or Numerical Guidelines set forth in this Rule, with the Percentage Parameters being applicable to an NMS Stock subject to the LULD Plan and the Numerical Guidelines being applicable to an NMS Stock not subject to the LULD Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[27] in general, and Section 6(b)(5) of the Act,[28] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

As explained in the purpose section of this proposed rule change, the current pilot was implemented following the Flash Crash to bring greater transparency to the process for conducting clearly erroneous reviews, and to help assure that the review process is based on clear, objective, and consistent rules across the U.S. equities markets. The Exchange believes that the amended clearly erroneous rules have been successful in that regard and have thus furthered fair and orderly markets. Specifically, the Exchange believes that the pilot has successfully ensured that such reviews are conducted based on objective and consistent standards across SROs and has therefore afforded greater certainty to ETP Holders and investors. The Exchange therefore believes that making the current pilot a permanent program is appropriate so that equities market participants can continue to reap the benefits of a clear, objective, and transparent process for conducting clearly erroneous reviews. In addition, the Exchange understands that the other U.S. equities exchanges and FINRA will also file largely identical proposals to make their respective clearly erroneous pilots permanent. The Exchange therefore believes that the proposed rule change would promote transparency and uniformity across markets concerning review of transactions as clearly erroneous and would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors, and the public interest.

Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to limit the availability of clearly erroneous review during the Core Trading Session. The Plan was approved by the Commission to operate on a permanent rather than pilot basis. As a number of market participants have noted, the LULD Plan provides protections that ensure that investors' orders are not executed at prices that may be considered clearly erroneous. Further, amendments to the LULD Plan approved in Amendment 18 serve to ensure that the Price Bands established by the LULD Plan are ''appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.'' [29] Thus, the Exchange believes that clearly erroneous review should only be necessary in very limited circumstances during the Core Trading Session. Specifically, such review would only be necessary in instances where a transaction was not subject to the LULD Plan, or was the result of some form of systems issue, as detailed in the purpose section of this proposed rule change. Additionally, in narrow circumstances where the transaction was subject to the LULD Plan, a clearly erroneous review would be available in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to LULD and resumes trading without an auction, where the Reference Price is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. Thus, eliminating clearly erroneous review in all other instances will serve to increase certainty for ETP Holders and investors that trades executed during the Core Trading

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See* Amendment 18, *supra* note 6.

Session would typically stand and would not be subject to review.

Given the fact that clearly erroneous review would largely be limited to transactions that were not subject to the LULD Plan, the Exchange also believes that it is necessary to change the parameters used to determine whether a trade is clearly erroneous. Specifically, due to the different parameters currently used for clearly erroneous review and for determining Price Bands, it is possible that a trade that would have been permitted to execute within the Price Bands would later be deemed clearly erroneous, if, for example, a systems issue prevented the dissemination of the Price Bands. The Exchange believes that this result is contrary to the principle that trades within the Price Bands should stand, and has the potential to cause investor confusion if trades that are properly executed within the applicable parameters described in the LULD Plan are later deemed erroneous. By using consistent parameters for clearly erroneous reviews conducted during the Core Trading Session and the calculation of the Price Bands, the Exchange believes that this change would also serve to promote greater certainty with regards to when trades may be deemed erroneous.

The Exchange believes that it is consistent with the protection of investors and the public interest to remove the current provision of the clearly erroneous rule dealing with UTP securities that are the subject of IPOs. This provision applies specifically to opening transactions on a non-listing market following an IPO on the listing market. As such, review under this paragraph is limited to trades conducted during the Core Trading Session. As previously addressed, trades executed during the Core Trading Session would generally not be subject to clearly erroneous review but would instead be protected by the Price Bands. The Exchange therefore no longer believes that this paragraph is necessary, as all trades subject to this provision today would either be subject to the LULD Plan, or, in the event of some systems or other issue, would be subject to the provisions that apply to transactions that are not adequately protected by the LULD Plan.

Finally, the proposed rule changes make organizational updates to the Exchange's Clearly Erroneous Execution Rule as well as minor updates and corrections to the Rule to improve readability and clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while also amending those rules to provide greater certainty to ETP Holders and investors that trades will stand if executed during the Core Trading Session where the LULD Plan provides adequate protection against trading at erroneous prices. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal and to the Cboe BZX proposal that the Commission recently approved.[30] Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[33] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[34] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on October 1, 2022. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to coordinate its implementation of the revised clearly erroneous execution rules with the other national securities exchanges and FINRA, and will help ensure consistency across the SROs.[35] For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[36]

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)[37] 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 SR–NYSEAMER–2022–41 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–NYSEAMER–2022–41. This file number should be included on the

[30] *See supra* note 8.

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6).

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6)(iii).

[35] *See* SR–CboeBZX–2022–37 (July 8, 2022).

[36] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[37] 15 U.S.C. 78s(b)(2)(B).

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–NYSEAMER–2022–41 and should be submitted on or before October 14, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20593 Filed 9–22–22; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17631 and #17632; Arizona Disaster Number AZ–00084]

Administrative Declaration of a Disaster for the State of Arizona

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Arizona dated 09/19/2022.

Incident: Severe Storms, Flooding, Mudslides and Debris Flows.

Incident Period: 07/23/2022 through 08/28/2022.

DATES: Issued on 09/19/2022.

Physical Loan Application Deadline Date: 11/18/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 06/19/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Coconino.

Contiguous Counties:

Arizona: Gila, Mohave, Navajo, Yavapai.

Utah: Kane, San Juan.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.375
Homeowners without Credit Available Elsewhere	1.688
Businesses with Credit Available Elsewhere	5.870
Businesses without Credit Available Elsewhere	2.935
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17631 6 and for economic injury is 17632 0.

The States which received an EIDL Declaration # are Arizona, Utah.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–20573 Filed 9–22–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17633 and #17634; Arizona Disaster Number AZ–00085]

Administrative Declaration of a Disaster for the State of Arizona

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Arizona dated 09/19/2022.

Incident: Severe Storms and Flooding.

Incident Period: 08/23/2022 through 08/25/2022.

DATES: Issued on 09/19/2022.

Physical Loan Application Deadline Date: 11/18/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 06/19/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cochise.

Contiguous Counties:

Arizona: Graham, Greenlee, Pima, Santa Cruz.

New Mexico: Hidalgo.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.375
Homeowners without Credit Available Elsewhere	2.188
Businesses with Credit Available Elsewhere	6.080
Businesses without Credit Available Elsewhere	3.040
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.040

[38] 17 CFR 200.30–3(a)(12).

	Percent
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17633 6 and for economic injury is 17634 0.

The States which received an EIDL Declaration # are Arizona, New Mexico.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–20574 Filed 9–22–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Senior Executive Service and Senior Level: Performance Review Board Members

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Members for the Performance Review Board.

SUMMARY: Title 5 U.S.C. 4314(c)(4) requires each agency to publish notification of the appointment of individuals who may serve as members of that agency's Performance Review Board (PRB). The following individuals have been designated to serve on the PRB for the U.S. Small Business Administration.

Members

1. Victor Parker (Chair), Deputy Associate Administrator, Office of Field Operations
2. Beatrice Hidalgo, Associate Administrator, Office of Government Contracting and Business Development
3. John Miller, Deputy Associate Administrator, Office of Capital Access
4. Jason Bossie, Director of Program Performance, Analysis, and Evaluation, Office of the Chief Financial Officer
5. Gabriel Esparza, Associate Administrator, Office of International Trade
6. George Holman, Associate Administrator, Office of Congressional and Legislative Affairs
7. Yvette Collazo-Reyes, Deputy Associate Administrator, Office of Entrepreneurial Development

Isabella C. Guzman,

Administrator.

[FR Doc. 2022–20694 Filed 9–22–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 11865]

Notice of Shipping Coordinating Committee Meeting in Preparation for International Maritime Organization MSC 106 Meeting

The Department of State will conduct a public meeting of the Shipping Coordinating Committee at 10:00 a.m. on Wednesday, October 26, 2022, by way of both in-person at Coast Guard Headquarters in Washington, DC and teleconference. The primary purpose of the meeting is to prepare for the one-hundred sixth session of the International Maritime Organization's (IMO) Maritime Safety Committee (MSC 106) to be held at IMO Headquarters in London, United Kingdom from Wednesday, November 2, 2022 to Friday November 11, 2022.

Members of the public may participate in-person or up to the capacity of the teleconference phone line, which can handle 500 participants. To RSVP, participants should contact the meeting coordinator, LCDR Jessica Anderson, by email at *jessica.p.anderson@uscg.mil.* The meeting location will be the United States Coast Guard Headquarters, Ray Evans Conference Room, ANTE–LL6 and the teleconference line will be provided to those who RSVP.

The agenda items to be considered by the advisory committee at this meeting mirror those to be considered at MSC 106, and include:

—Opening of the session
—Adoption of the agenda; report on credentials
—Decisions of other IMO bodies
—Consideration and adoption of amendments to mandatory instruments
—Goal-based new ship construction standards
—Development of a goal-based instrument for Maritime Autonomous Surface Ships (MASS)
—Measures to enhance maritime security
—Piracy and armed robbery against ships
—Unsafe mixed migration by sea
—Formal safety assessment
—Human element, training and watchkeeping (Urgent matters emanating from the eighth session of the Sub-Committee)
—Ship systems and equipment (Report of the eighth session of the Sub-Committee)
—Pollution prevention and response (matters emanating from the ninth session of the Sub-Committee)
—Navigation, communications and search and rescue (report of the ninth session of the Sub-Committee)
—Implementation of IMO instruments (Report of the eighth session of the Sub-Committee)
—Application of the Committee's method of work
—Work programme
—Election of the Chair and Vice-Chair for 2023
—Any other business
—Consideration of the report of the Committee on its 106th session

Please note: The IMO may, on short notice, adjust the MSC 106 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate may contact the meeting coordinator, LCDR Jessica Anderson, by email at *Jessica.P.Anderson@uscg.mil,* or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509. Members of the public needing reasonable accommodation should advise LCDR Jessica Anderson not later than October 19, 2022. Requests made after that date will be considered, but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Gregory J. O'Brien,

Senior Oceans Policy Advisor, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2022–20639 Filed 9–22–22; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 11866]

Notice of Shipping Coordinating Committee Meeting in Preparation for International Maritime Organization MEPC 79 Meeting

The Department of State will conduct a public meeting of the Shipping Coordinating Committee at 10:00 a.m. on Wednesday, December 7, 2022, by way of both in-person at Coast Guard Headquarters in Washington, DC and teleconference. The primary purpose of the meeting is to prepare for the seventy ninth session of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC 79) to be held at IMO Headquarters from Monday, December 12, 2022 to Friday December 16, 2022.

Members of the public may participate in-person or up to the capacity of the teleconference phone line, which can handle 500 participants. To RSVP, participants should contact the meeting coordinator, LCDR Jessica Anderson, by email at *jessica.p.anderson@uscg.mil.* The meeting location will be the United States Coast Guard Headquarters, Ray Evans Conference Room, 6I10–01–B/C and the teleconference line will be provided to those who RSVP.

The agenda items to be considered by the advisory committee at this meeting mirror those to be considered at MEPC 79, and include:

— Adoption of the agenda
—Decisions of other IMO bodies
—Consideration and adoption of amendments to mandatory instruments
—Harmful aquatic organisms in ballast water
—Air pollution prevention
—Energy efficiency of ships
—Reduction of GHG emissions from ships
—Follow-up work emanating from the Action Plan to address marine plastic litter from ships
—Reports of other sub-committees
—Identification and protection of Special Areas, ECAs and PSSAs
—Application of the Committee's method of work
—Work programme of the Committee and subsidiary bodies
—Election of the Chair and Vice-Chair
—Any other business
—Consideration of the report of the Committee

Please note: the IMO may, on short notice, adjust the MEPC 79 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate may contact the meeting coordinator, LCDR Jessica Anderson, by email at *Jessica.P.Anderson@uscg.mil,* or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509. Members of the public needing reasonable accommodation should advise LCDR Jessica Anderson not later than November 30, 2022. Requests made after that date will be considered, but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Gregory J. O'Brien,

Senior Oceans Policy Advisor, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2022–20645 Filed 9–22–22; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2022–4)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the fourth quarter 2022 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The fourth quarter 2022 RCAF (Unadjusted) is 1.295. The fourth quarter 2022 RCAF (Adjusted) is 0.527. The fourth quarter 2022 RCAF–5 is 0.503.

DATES: *Applicability Date:* October 1, 2022.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available at *www.stb.gov.*

Decided: September 19, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2022–20671 Filed 9–22–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[DOT–OST–2022]

Research, Engineering, and Development Advisory Committee (REDAC); Notice of Public Meeting

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the Research, Engineering, and Development Advisory Committee (REDAC).

DATES: The meeting will be held on October 5, 2022, from 9:30 a.m.–5:00 p.m., EST. Requests for accommodations to a disability must be received by September 27, 2022. Individuals requesting to speak during the meeting must submit a written copy of their remarks to DOT by September 27, 2022. Requests to submit written materials to be reviewed during the meeting must be received no later than September 27, 2022.

ADDRESSES: The meeting will be held virtually or in a hybrid setting. Virtual attendance information will be provided upon registration. A detailed agenda will be available on the REDAC internet website at *http://www.faa.gov/go/redac* at least one week before the meeting, along with copies of the meeting minutes after the meeting.

FOR FURTHER INFORMATION CONTACT: Chinita Roundtree-Coleman, REDAC PM/Lead, FAA/U.S. Department of Transportation, at *chinita.roundtree-coleman@faa.gov* or (609) 485–7149. Any committee-related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The Research, Engineering, and Development Advisory Committee was created under the Federal Advisory Committee Act (FACA), in accordance with Public Law 100–591 (1988) and Public Law 101–508 (1990) to provide advice and recommendations to the FAA Administrator in support of the Agency's Research and Development (R&D) portfolio.

II. Agenda

At the meeting, the agenda will cover the following topics:

- FAA Research and Development Strategies, Initiatives and Planning,
- Impacts of emerging technologies, new entrant vehicles, and dynamic operations within the National Airspace System.

III. Public Participation

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

There will be 45 minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to

reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the FAA may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks for inclusion in the meeting records and circulation to REDAC members before the deadline listed in the **DATES** section. All prepared remarks submitted on time will be accepted and considered as part of the meeting's record. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC.

Chinita Roundtree-Coleman,

REDAC PM/Lead, Federal Aviation Administration.

[FR Doc. 2022–20606 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1254]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: FAA Airport Data and Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves aeronautical information the FAA uses to carry out agency missions related to flight safety, flight planning, airport engineering and federal grant analysis, airport actions, aeronautical chart and flight information publications, and the promotion of air commerce as required by statute. The information will be used for airspace studies conducted under 49 U.S.C. 329(b) and published in flight information handbooks and charts for pilot use. We have renamed and updated the collection, previously called the FAA Airport Master Record, to incorporate several related tools using this data that are made available and processed via the same online system—the Airport Data and Information Portal (ADIP).

DATES: Written comments should be submitted by September 23, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By Mail: Andrew Goldsmith, Airport Data and Airspace Branch (AAS–120), Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

By Fax: 202–267–3688.

FOR FURTHER INFORMATION CONTACT: Andrew Goldsmith by email at: *Andrew.E.Goldsmith@faa.gov;* phone: 202–267–6549.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0015.

Title: FAA Airport Data and Information.

Form Numbers: 5010–1, 5010–2, 5010–3, 5010–4.

Type of Review: Renewal of an information collection.

Background: 49 U.S.C. 329(b) empowers and directs the Secretary of Transportation to collect and disseminate information on civil aeronautics. Aeronautical information is required by the FAA to carry out agency missions agency missions related to flight safety, flight planning, airport engineering and federal grant analysis, aeronautical studies and airport actions, aeronautical chart and flight information publications, and the promotion of air commerce as required by statute. The existing FAA Airport Master Record is now fully online and part of a suite of tools using aeronautical data to support the origination and distribution of airport data and information. Modules include the Airports Geographic Information System (AGIS), Airport Master Record (AMR), Modification of Standards (MOS), Runway Airspace Management (RAM), and Runway Safety Area Inventory (RSAI) as well as Registration. The burden per respondent will depend on which module or modules the respondent is using as well as the complexity of submitted projects.

We have renamed and updated the collection, previously called the FAA Airport Master Record, to reflect the consolidation of these tools and processes into a single online system—the Airport Data and Information Portal (ADIP). ADIP provides airports with direct access to their data and the ability to submit changes to it according to defined business rules. We are cancelling the PDF forms previously used to collect Airport Master Record data as they are no longer used for any collection activities.

Respondents: Approximately 10,000 airport owners/managers and consultants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1–5 hours, depending on the module and complexity of the project.

Estimated Total Annual Burden: 10,000–50,000 hours for all submissions.

Issued in Washington, DC, on September 19, 2022.

Andrew Goldsmith,

Aeronautical Information Specialist, Airport Data and Airspace Branch, Office of Airport Safety and Standards.

[FR Doc. 2022–20598 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0347]

Commercial Driver's License Standards: Application for Exemption; Navistar, Inc. (Navistar)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption from the commercial driver's license (CDL) requirements to Navistar, Inc. (Navistar) for a commercial motor vehicle (CMV) driver, Mr. Anders Björkman, employed as an engineer by Navistar's business partner Scania AB (Scania). Navistar and Scania are subsidiaries of Germany's TRATON SE. Mr. Björkman holds a valid Swedish commercial license and wants to test drive Navistar CMVs on U.S. roads to better understand product requirements in ''real world'' environments and verify

results. FMCSA reviewed Mr. Björkman's commercial license records provided by Navistar, and believes the requirements for a Swedish commercial license, and the terms and conditions set forth below, including a Navistar-administered drug and alcohol testing program, will ensure that his operation under this exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: This exemption is effective September 23, 2022 and expires September 23, 2027.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 366–4225 or by email *atMCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number, ''FMCSA–2018–0347'' in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.''

To view documents mentioned in this notice as being available in the docket, go to *www.regulations.gov,* insert the docket number ''FMCSA–2018–0347'' in the keyword box, click ''Search,'' and choose the document to review.

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, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and the public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Current Regulatory Requirements

Under 49 CFR 383.23, no person shall operate a commercial motor vehicle (CMV) without first having taken and passed the knowledge and driving skills tests for a commercial learner's permit or CDL that meet the Federal standards in subparts F, G, and H of part 383 for the CMV that person operates or expects to operate. Such drivers are also subject to the controlled substances and alcohol testing requirements of 49 CFR part 382.

IV. Applicant's Request

Navistar has applied for an exemption for Anders Björkman from 49 CFR 383.23 because he is unable to obtain a CDL due to his lack of residency in the United States. Navistar states that Mr. Björkman is employed as an expert engineer by Navistar's business partner Scania in Sweden. Navistar and Scania are both subsidiaries of Germany's TRATON SE.

Mr. Björkman holds a valid Swedish commercial license. The exemption would allow him to operate CMVs in interstate or intrastate commerce to support Navistar field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. According to Navistar, the driving will consist of no more than 250 miles per day, for a total of 500 miles during a two-day period on a quarterly basis.

V. Method To Ensure an Equivalent or Greater Level of Safety

According to Navistar, the requirements for a Swedish commercial license ensure that the same level of safety is met or exceeded as if this driver had a CDL issued by one of the States. Navistar explained that Anders Björkman is familiar with the operation of CMVs worldwide and would be accompanied at all times by a driver who holds a State-issued CDL and is familiar with the routes to be traveled. In addition, Navistar provided a statement of driving history for Mr. Björkman.

VI. Public Comments

On April 7, 2022, FMCSA published notice of this application and requested public comments (87 FR 20499). The Agency received no comments.

VII. FMCSA Decision

FMCSA has determined that the process for obtaining a Swedish commercial license is comparable to the process for obtaining a State-issued CDL and therefore adequately ensures that this driver can safely operate a CMV in the United States. FMCSA reviewed documents submitted with the application including Mr. Björkman's Swedish commercial license, his driving record, a CMV experience statement, and accident statement. In 2019, the Agency granted similar exemptions to Navistar drivers on three occasions [April 15, 2019 (84 FR 15283); November 21, 2019 (84 FR 64400); December 27, 2019 (84 FR 71525)]. Furthermore, the Agency has granted German drivers working for Daimler similar exemptions.[1]

Under this exemption, Mr. Björkman would not be subject to the drug and alcohol testing requirements, set forth in 49 CFR part 382, which apply only to drivers who are subject to the CDL requirements in 49 CFR part 383, the Canadian National Safety Code, or the Licencia Federal de Conductor (Mexico), and to their employers (49 CFR 382.103(a)). Therefore, to ensure a likely equivalent level of safety, the terms and conditions of this exemption

[1] FMCSA granted Daimler drivers similar exemptions on May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151), September 10, 2018 (83 FR 45742) and April 27, 2022 (87 FR 25083).

require that Navistar implement a corporate drug and alcohol testing program substantially equivalent to the testing requirements in part 382.

Based on the information provided by Navistar, as described in section IV, including the driver's experience and safety record, FMCSA concludes that the exemption, subject to the terms and conditions set forth in section VIII, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 49 U.S.C. 31315(b)(1).

VIII. Terms and Conditions for the Exemption

This exemption applies only to Navistar driver Anders Björkman. This driver is granted an exemption from the CDL requirement in 49 CFR 383.23 to allow him to drive CMVs in the United States without a State-issued CDL. Consequently, this driver is not subject to the requirements of 49 CFR part 382. When operating under this exemption, Navistar and Mr. Björkman are subject to the following terms and conditions:

(1) The driver and Navistar must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399);

(2) The driver must be in possession of the exemption document and a valid Swedish commercial license;

(3) The driver must be employed by and operate the CMV within the scope of his duties for Navistar or its partner Scania;

(4) At all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a State-issued CDL who is familiar with the routes traveled;

(5) Navistar must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving Mr. Björkman; and

(6) Navistar must notify FMCSA in writing if Mr. Björkman is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs; and

(7) Navistar must implement a drug and alcohol testing program substantially equivalent to the applicable requirements in 49 CFR part 382, subparts A–F, and require that Mr. Björkman be subject to those requirements.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Notification to FMCSA

Under the exemption, Navistar must notify FMCSA within 5 business days of any crash (as defined in 49 CFR 390.5), involving Anders Björkman while operating a CMV under the terms of this exemption. The notification about crashes must include the following information:

a. Identifier of the Exemption: ''Navistar—Björkman;''

b. Name of operating carrier and USDOT number;

c. Date of the crash;

d. City or town, and State, in which the accident occurred, or closest to the crash scene;

e. Driver's name and license number;

f. Co-driver's name (if any) and license number;

g. Vehicle number and State license number;

h. Number of individuals suffering physical injury;

i. Number of fatalities;

j. The police-reported cause of the crash, if provided by the enforcement agency;

k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and

l. The total on-duty time accumulated during the 7 consecutive days prior to the date of the crash, and the total on-duty time and driving time in the work shift prior to the crash.

IX. Termination

FMCSA has no reason to believe the motor carrier and driver covered by this exemption will experience any deterioration of their safety records. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–20642 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2022–0195]

Request for Comments on the Renewal of a Previously Approved Information Collection: Regulations for Making Excess or Surplus Federal Property Available to the U.S. Merchant Marine Academy, State Maritime Academies and Non-Profit Maritime Training Facilities

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used to determine compliance with applicable statutory requirements regarding surplus government property. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before October 24, 2022.

ADDRESSES: You may submit comments identified by Docket No. DOT–MARAD–2022–0195 through one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or

include your comments in the request for OMB's clearance of this information collection.

Electronic Access and Filing

A copy of the notice may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this notice will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Katrina McRae, Vessel Transfer Specialist, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–3198, *katrina.mcrae@dot.gov*.

FOR FURTHER INFORMATION CONTACT:

Title: Regulations for Making Excess or Surplus Federal Property Available to the U.S. Merchant Marine Academy, State Maritime Academies and Non-Profit Maritime Training Facilities.

OMB Control Number: 2133–0504.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The Maritime Administration requires approved maritime training institutions seeking excess or surplus government property to provide a statement of need/justification prior to acquiring the property.

Respondents: Maritime training institutions such as the U.S. Merchant Marine Academy, State Maritime Academies and non-profit maritime institutions.

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 40.

Estimated Hours per Response: 1.

Annual Estimated Total Annual Burden Hours: 40.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.93.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–20568 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0196]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SWEET DREAMS (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 24, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0196 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0196 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–2022–0196, 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 SWEET DREAMS is:

—*Intended Commercial Use of Vessel:* ''I would like to have a 6–12 person charter business in Newport Beach, California, and I would like to have this vessel coastwise for 6–12 passengers.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Newport Beach, CA)

—*Vessel Length and Type:* 51.9′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0196 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–2022–0196 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. 2022–20632 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0199]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FAMILY AFFAIR (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 24, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0199 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0199 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–2022–0199, 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 FAMILY AFFAIR is:

—*Intended Commercial Use of Vessel:* ''We (husband and wife) are United States Citizens looking to offset some of our vessel ownership costs by offering Occasional small vessel charter services in the local area of San Diego, California, 3–5 times a month. Within US territorial waters. My wife is currently retired, Husband will retire in DEC 2023, and we have no intention to hire any employees. Our expectation is to re-invest any proceeds from this venture back into the vessel's maintenance, modernization, and sustainment.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: San Diego, CA)

—Vessel Length and Type: 41′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0199 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–2022–0199 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. 2022–20633 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0198]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FINDING BALANCE (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 24, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0198 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0198 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–2022–0198, 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 FINDING BALANCE is:

—*Intended Commercial Use of Vessel:* ''In partnership with a local resort, offering limited full day, no overnight, passenger only charters.''

—*Geographic Region Including Base of Operations:* ''North Carolina.'' (Base of Operations: Wrightsville Beach, NC)

—*Vessel Length and Type:* 51′ Sail (Power Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0198 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–2022–0198 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. 2022–20631 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0197]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: GOOD ENERGY (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 24, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0197 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0197 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–2022–0197, 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 GOOD ENERGY is:

—*Intended Commercial Use of Vessel:* ''Primarily personal use with occasional limited passenger charter (6 or less persons), less than 70 days per year.''

—*Geographic Region Including Base of Operations:* ''North Carolina, South Carolina, Georgia, Florida.'' (Base of Operations: Wrightsville Beach, NC)

—*Vessel Length and Type:* 60′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0197 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–2022–0197 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. 2022–20635 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0200]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: REGAL (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 24, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0200 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0200 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–2022–0200, 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 REGAL is:

—*Intended Commercial Use of Vessel:* ''Charter use.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Miami Beach, FL)

—*Vessel Length and Type:* 90′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0200 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–2022–0200 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.

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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. 2022–20629 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0201]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: THE SPEAK EASY (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 24, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0201 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0201 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–2022–0201, 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 SPEAK EASY is:

—*Intended Commercial Use of Vessel:* ''6-pack, day charter.''
—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: San Diego, CA)
—*Vessel Length and Type:* 44.8′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0201 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–2022–0201 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.

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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. 2022–20630 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

SMART Grants Notice of Funding Opportunity

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), U.S. Department of Transportation (DOT or the Department).

ACTION: Notice of Funding Opportunity (NOFO), Assistance Listing #20.941.

SUMMARY: The purpose of this notice is to solicit applications for Strengthening Mobility and Revolutionizing Transportation (SMART) grants. Funds for the fiscal year (FY) 2022 SMART Grants Program are to be awarded on a competitive basis to conduct demonstration projects focused on advanced smart city or community technologies and systems to improve transportation efficiency and safety.

DATES: Applications must be submitted by 5:00 p.m. EST on Friday, November 18, 2022. Late applications will not be accepted.

ADDRESSES: Applications must be submitted via Valid Eval, an online submission proposal system used by USDOT, at *https://usg.valideval.com/teams/USDOT_SMART_2022/signup.*

FOR FURTHER INFORMATION CONTACT: Please contact SMART Grant Program staff via email at *smart@dot.gov,* or call Roxanne Ledesma at 202–774–8003. A telecommunications device for the deaf (TDD) is available at 202–366–3993. In addition, USDOT will regularly post answers to questions and requests for clarifications, as well as schedule information regarding webinars providing additional guidance, on USDOT's website at *https://www.transportation.gov/smart.* The deadline to submit technical questions is Friday, November 4, 2022.

SUPPLEMENTARY INFORMATION: Each section of this notice contains information and instructions relevant to the application process for SMART grants. All applicants should read this notice in its entirety so that they have the information they need to submit eligible and competitive applications.

Office of the Assistant Secretary for Research and Technology (OST–R), USDOT

Notice of Funding Opportunity for the Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program

A. Program Description

1. Overview

Section 25005 of the Infrastructure Investment and Jobs Act (Pub. L. 117–58, November 15, 2021; also referred to as the ''Bipartisan Infrastructure Law'' or ''BIL'') authorized and appropriated $100 million to be awarded by the Department of Transportation (DOT) for FY 2022 for the SMART Grants Program. This NOFO solicits applications for activities to be funded under the SMART Grants Program. The FY22 funding will be implemented, as appropriate and consistent with law, in alignment with the priorities in Executive Order 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64355).[1]

The purpose of the SMART Grants Program is to conduct demonstration projects focused on advanced smart city or community technologies and systems in a variety of communities to improve transportation efficiency and safety. The program funds projects that are focused on using technology interventions to solve real-world challenges and build data and technology capacity and expertise in the public sector.[2]

2. Program Structure

The SMART Grants Program includes two stages: *Stage 1 Planning and Prototyping Grants (Stage 1 grants)* and *Stage 2 Implementation Grants (Stage 2 grants).* The program structure is based on a belief that *planning, prototyping, and partnership are critical* to advancing the state of the practice for data and technology projects in the public sector. USDOT anticipates that only recipients of Stage 1 Planning and Prototyping Grants will be eligible for Stage 2 Implementation Grants and anticipates funding projects of up to $2,000,000 per project for Stage 1 and up to $15,000,000 per project for Stage 2.

Stage 1 recipients should build internal buy-in and partnerships with stakeholders to refine and prototype their concepts, and report on results. Stakeholders can include public, private, academic, and nonprofit organizations; organized labor and workforce organizations; and community organizations and networks. At the conclusion of Stage 1, recipients should have the information to either create a fully realized implementation plan with robust performance metrics; or to make an informed decision not to proceed with the concept. Stage 1 results may uncover previously unknown institutional barriers, technical limitations, or poor

[1] The priorities of Executive Order 14052, ''Implementation of the Infrastructure Investments and Jobs Act'' are as follows: to invest efficiently and equitably, promote the competitiveness of the U.S. economy, improve job opportunities by focusing on high labor standards and equal employment opportunity, strengthen infrastructure resilience to hazards including climate change, and to effectively coordinate with State, local, Tribal, and territorial government partners. *https://www.federalregister.gov/documents/2021/11/18/2021-25286/implementation-of-the-infrastructure-investment-and-jobs-act.*

[2] For more information and illustrative use cases, please see *www.transportation.gov/SMART.*

performance relative to conventional solutions. The SMART Grants Program expects to document lessons learned from Stage 1 projects, knowing that these findings will be broadly beneficial to the transportation sector.

Stage 2 implementation projects should result in a scaled-up demonstration of the concept, integrating it with the existing transportation system and refining the concept such that it could be replicated by others. If demonstration at scale identifies critical challenges, gaps, or negative impacts, they should be clearly stated and documented so that other communities that take on similar projects can learn from them and adapt.

This NOFO solicits applications only for Stage 1 grants. USDOT anticipates that an FY23 SMART Grants Program NOFO will solicit applications for both Stage 1 and Stage 2 grants.

3. Departmental Priorities

The *FY 2022–2026 U.S. Department of Transportation Strategic Plan* establishes USDOT's strategic goals: safety, economic strength and global competitiveness, equity, climate and sustainability, transformation, and organizational excellence.[3] The USDOT Innovation Principles guide Departmental actions related to innovation generally as well as the transformation strategic goal.[4] Applicants are encouraged to review the Innovation Principles, along with other resources accessible on the SMART Grants website [5] and to incorporate them into the design of applications for the SMART Grants Program.

4. SMART Grants Program Priorities

As established in BIL, projects funded by the SMART Grants Program use advanced data, technology, and applications to provide significant benefits to a local area, a State, a region, or the United States. These benefits are identified in BIL and align to the following categories:

- *Safety and reliability:* Improve the safety of systems for pedestrians, bicyclists, and the broader traveling public. Improve emergency response.
- *Resiliency:* Increase the reliability and resiliency of the transportation system, including cybersecurity and resiliency to climate change effects.
- *Equity and access:* Connect or expand access for underserved or disadvantaged populations. Improve access to jobs, education, and essential services.
- *Climate:* Reduce congestion and/or air pollution, including greenhouse gases. Improve energy efficiency.
- *Partnerships:* Contribute to economic competitiveness and incentivize private sector investments or partnerships, including technical and financial commitments on the proposed solution. Demonstrate committed leadership and capacity from the applicant, partners, and community.
- *Integration:* Improve integration of systems and promote connectivity of infrastructure, connected vehicles, pedestrians, bicyclists, and the broader traveling public.

The Department will prioritize SMART grants funding applications that demonstrate the following characteristics, identified in BIL:

- *Fit, scale, and adoption:* Right-size the proposed solution to population density and demographics, the physical attributes of the community and transportation system, and the transportation needs of the community. Confirm technologies are capable of being integrated with existing transportation systems, including transit. Leverage technologies in repeatable ways that can be scaled and adopted by communities.
- *Data sharing, cybersecurity, and privacy:* Promote public and private sharing of data and best practices and the use of open platforms, open data formats, technology-neutral requirements, and interoperability. Promote industry best practices regarding cybersecurity and technology standards. Safeguard individual privacy.
- *Workforce development:* Promote a skilled and inclusive workforce.
- *Measurement and validation:* Allow for the measurement and validation of the cost savings and performance improvements associated with the installation and use of smart city or community technologies and practices.

To accomplish these objectives, the SMART Grants Program will fund projects that focus on using technology interventions to solve real-world challenges facing communities.

SMART will focus on building data and technology capacity and expertise for State, local, and Tribal governments. Technology investment is most beneficial when tailored to the needs of the community. SMART recognizes that many public sector agencies are challenged to find the resources and personnel to engage with new technologies; this is reflected in the program design, which builds in the time and support needed for projects to succeed. SMART will support and grow a strong, diverse, and local workforce.

Successful projects will seek to build sustainable partnerships across sectors and levels of government as well as collaborate with industry, academia, nonprofits, and other traditional and non-traditional partners.

See Section E.1.i for more detail on merit criteria that implement priorities outlined above.

B. Federal Award Information

1. Total Funding Available

The BIL established the SMART Grants Program with $500,000,000 in advanced appropriations, including $100,000,000 for FY 2022. Therefore, this Notice makes available up to $100,000,000 for FY 2022 grants under the SMART Grants Program. USDOT anticipates using up to 2% of this funding for administrative costs. Refer to Section D for greater detail on additional funding considerations and Section D.7 for funding restrictions.

2. Availability of Funds

Grant funding obligation occurs when a selected applicant and USDOT enter into a written grant agreement after the applicant has satisfied applicable administrative requirements. Any costs incurred prior to USDOT's obligation of funds for activities (''pre-award costs'') are ineligible for reimbursement. SMART Program Grant funds are available until expended. USDOT retains the right to prioritize projects for selection that are most likely to achieve an efficient timeline and be completed within the expected period of performance (18 months).

3. Award Size and Anticipated Quantity

USDOT expects to award between 30 and 50 Stage 1 grants of up to $2,000,000 per award. The Department reserves the right to make more, or fewer, awards. USDOT reserves the discretion to alter maximum award sizes upon receiving the full pool of applications and assessing the needs of the program in relation to the priorities in Section A.3 and A.4. USDOT also reserves the right not to award the full funding amount requested by an applicant.

4. Start Dates and Period of Performance

USDOT expects to obligate SMART award funding via a signed grant agreement between the Department and the recipient, as flexibly and expeditiously as possible, within 12

[3] See: FY 2022–26 USDOT Strategic Plan (*https://www.transportation.gov/dot-strategic-plan*), page 6. Last updated April 7, 2022.

[4] See: USDOT Innovation Principles (*https://www.transportation.gov/priorities/innovation/us-dot-innovation-principles*). Released January 6, 2022; last updated July 14, 2022.

[5] Other resources can be found at *www.transportation.gov/SMART,* and include the USDOT Strategic Plan, the USDOT Equity Action Plan, and the National Roadway Safety Strategy.

months after project selections have been announced. The expected period of performance for Stage 1 SMART grant agreements is up to 18 months.

5. Data Collection Requirements

i. Data Management

To fulfill the reporting requirements and in accordance with the USDOT Public Access Plan, award recipients must consider, budget for, and implement appropriate data management for data and information outputs acquired or generated during the grant. Applicants are expected to account for data and performance reporting in their budget submission. Requirements include a project:

- Defaulting to open access when appropriate (exceptions include protecting personally identifiable information [PII], Indigenous data sovereignty, or confidential business information [CBI]);
- Protecting PII, intellectual property rights, and CBI;
- Utilizing, when possible, open licenses and protecting USDOT's non-exclusive copyright to data and corresponding outputs;
- Making the source code or tools necessary to analyze the data available to the public, if relevant;
- Providing relevant metadata (in a DCAT–US file, and, optionally, a discipline-appropriate metadata standard file), and data documentation (README.txt files, data dictionaries, code books, supporting files, imputation tables, etc.); and
- Where applicable, considering contributing data to voluntary resources such as NHTSA's AV TEST Initiative.

Projects should implement data management best practices including, but not limited to, implementation of published data specifications and standards (formal and informal); increasing data discoverability and data sharing; and enabling interaction of systems, interoperability, and integration of data systems.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants for the SMART Grants Program include:

A. a State; [6]

B. a political subdivision of a State; [7]

C. a federally recognized Tribal government;

D. a public transit agency or authority;

E. a public toll authority;

F. a metropolitan planning organization; or

G. a group of two or more eligible entities listed above in Section C.1 applying through a single lead applicant (Group Application).

Collaborative Applications

Eligible entities may choose to collaborate across different regions or geographies on projects with similar characteristics, addressing similar problems and with similar technologies, potentially sharing common resources such as partnerships with industry, nonprofits, academic institutions, or community foundations. If these entities choose not to apply as a group with a single lead applicant, they should identify their application as a collaborative application.

- Each organization in a collaborative application must submit an individual application.
- Collaborative applications can include any type of eligible entity.
- Each individual application in a collaborative application will be evaluated on its own merits and USDOT reserves the right to fund all, some, or none of the associated applications, with the same anticipated funding (*i.e.,* up to $2,000,000 per individual award).

2. Cost Sharing or Matching

Cost sharing or matching is *not* required for Stage I: Planning and Prototyping.

3. Eligible Activities

The SMART Grants Program funds multiple technology areas, as listed below. Projects *must* demonstrate at least one technology area and *may* demonstrate more than one technology area. USDOT will evaluate each application on its merits, and there is no expectation that applications demonstrate more than one technology area.

As stated in BIL Section 25005 (e)(1), the following technology areas are eligible projects under SMART.

Technology area	Definition
Coordinated Automation	Use of automated transportation and autonomous vehicles while working to minimize the impact on the accessibility of any other user group or mode of travel.
Connected Vehicles	Vehicles that send and receive information regarding vehicle movements in the network and use vehicle-to-vehicle and vehicle-to-everything communications to provide advanced and reliable connectivity.
Intelligent, Sensor-Based Infrastructure.	Deployment and use of a collective intelligent infrastructure that allows sensors to collect and report real-time data to inform everyday transportation-related operations and performance.
Systems Integration	Integration of intelligent transportation systems with other existing systems and other advanced transportation technologies.
Commerce Delivery and Logistics	Innovative data and technological solutions supporting efficient goods movement, such as connected vehicle probe data, road weather data, or global positioning data to improve on-time pickup and delivery, improved travel time reliability, reduced fuel consumption and emissions, and reduced labor and vehicle maintenance costs.
Leveraging Use of Innovative Aviation Technology.	Leveraging the use of innovative aviation technologies, such as unmanned aircraft systems, to support transportation safety and efficiencies, including traffic monitoring and infrastructure inspection.
Smart Grid	Developing a programmable and efficient energy transmission and distribution system to support the adoption or expansion of energy capture, electric vehicle deployment, or freight or commercial fleet fuel efficiency.
Smart Technology Traffic Signals	Improving the active management and functioning of traffic signals, including through: • Use of automated traffic signal performance measures; • Implementing strategies, activities, and projects that support active management of traffic signal operations, including through optimization of corridor timing; improved vehicle, pedestrian, and bicycle detection at traffic signals; or the use of connected vehicle technologies; • Replacement of outdated traffic signals; or • For an eligible entity serving a population of less than 500,000, paying the costs of temporary staffing hours dedicated to updating traffic signal technology.

[6] U.S. territories are eligible applicants.

[7] For the purposes of the SMART Grants Program Notice of Funding Opportunity, a political subdivision of a State is defined as a unit of government created under the authority of State law. This includes cities, towns, counties, special districts, and similar units of local government, such as public port or airport authorities, if created under State law.

Projects must comply with relevant federal, state, and local laws and regulations to be eligible. These vary by technology area, and it is the responsibility of the applicant to understand the requirements for their application. This section briefly discusses a few notable examples and is not comprehensive.

Innovative aviation projects must show understanding and awareness of, and comply with, all FAA and other federal, state, and local regulations relevant to the technologies and usages thereof. For instance, in the case of innovative aviation projects involving small, unmanned aircraft systems (UAS), applicants are responsible for complying with regulations which may include, and are not limited to the following, as necessary to achieve desired outcomes: [8]

- 14 CFR part 91 General Operating and Flight Rules [9]
- 14 CFR part 107 small UAS rule; Small UAS [10]
- UAS Operations over People rule; Operations Over People General Overview [11]
- UAS Remote identification rule; UAS Remote Identification Overview [12]

Proponents of innovative aviation projects are also responsible for using U.S. government tools and resources which may include, and are not limited to the following, as necessary to fulfill requirements to operate technologies and achieve desired outcomes:

- FAA DroneZone, used to register UAS [13]
- FAA Low Altitude Authorization and Notification Capability (LAANC), used to obtain airspace authorization to fly in controlled airspace [14]
- Part 107 Waiver Resources,[15] used to enable more complex UAS operations [16]

Projects that use communications technologies must either (1) use Vehicle-to-Everything (V2X) services that utilize Cellular Vehicle-to-Everything (C–V2X) based technology designed to operate within the 30 MHz of spectrum (5.895–5.925 GHz) that are consistent with the final rules established in relation to Federal Communications Commission (FCC) ET Docket No. 19–138 and future Report and Orders effective at the time when the Department selects projects for funding under the FY22 SMART Grants Program, or (2) leverage other communications technologies that can support V2X services and operate in spectrum outside of the 5.895–5.925 GHz range.

Projects that involve equipping or retrofitting motor vehicles with additional technologies are only eligible if the vehicles are publicly owned, leased or used in a contracted service; equipping privately owned and operated vehicles outside of a leased or contracted service is not an eligible activity. Projects involving motor vehicles must involve only vehicles that comply with all applicable Federal Motor Vehicle Safety Standards (FMVSSs) and Federal Motor Carrier Safety Regulations (FMCSRs), or vehicles that are exempt from the requirements in a manner that allows for the legal acquisition and operation of the vehicles in the proposed project.

For all technology areas, if an exemption, waiver, permit, or other special permission is required in order to conduct the proposed project, it will strengthen a Stage 1 application if the applicant can affirm that it has already received such permission. If the project is selected for award, the lack of a required exemption, waiver, permit, or special permission may impact the Department's funding timeline or result in special conditions in the grant agreement. For future rounds of SMART that include Stage 2 applications, Stage 2 applicants will be required to obtain all necessary exemptions, waivers, permits, or special permissions before submitting an application and provide such affirmation. The selection of a project to receive a SMART grant is not a determination of the merit of any waiver or exemption.

4. Eligible Costs

Broadly, eligible activity costs must comply with the cost principles set forth in 2 CFR part 200, subpart E (*i.e.,* 2 CFR 200.403 and § 200.405). USDOT reserves the right to make cost eligibility determinations on a case-by-case basis. Eligible development and construction activities for grant funding are the following:

- planning;
- feasibility analyses;
- revenue forecasting;
- environmental review;
- permitting;
- preliminary engineering and design work;
- systems development or information technology work;
- acquisition of real property (including land and improvements to land relating to an eligible project);
- construction;
- reconstruction;
- rehabilitation;
- replacement;
- environmental mitigation;
- construction contingencies; and
- acquisition of equipment, including vehicles.

The following are *not* eligible costs for SMART Grants Program funding:

- reimbursement of any pre-award costs or application preparation costs of the SMART grant application;
- traffic or parking enforcement activity; or
- purchase or lease of a license plate reader.

Federal funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

For grant recipients receiving an award, project evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR part 200). For more information on required reporting, see Section F.3. An eligible entity may not use more than 3 percent of the amount of a SMART grant for each fiscal year to achieve compliance with applicable planning and reporting requirements.

D. Application and Submission Information

1. Address To Request Application Package

All grant application materials can be accessed at *grants.gov* under the Notice of Funding Opportunity Number DOT–SMART–FY22–01. Applicants must submit their applications via Valid Eval

[8] Other terminologies exist, using the FAA terminology ''unmanned aircraft systems'' for simplicity;

[9] 14 CFR part 91 *https://www.ecfr.gov/current/title-14/chapter-I/subchapter-F/part-91.*

[10] 14 CFR part 107 *https://www.ecfr.gov/current/title-14/chapter-I/subchapter-F/part-107.*

[11] FAA Operations Over People General Overview *https://www.faa.gov/uas/commercial_operators/operations_over_people.* Last updated November 17, 2021.

[12] FAA Final Rule on Remote ID *https://www.faa.gov/uas/getting_started/remote_id#:~:text=Remote%20ID%20will%20provide%20information,drone's%20owner%20from%20the%20FAA.* Last updated July 13, 2022.

[13] FAA DroneZone; *https://faadronezone.faa.gov/.*

[14] FAA UAS Data Exchange (LAANC); *https://www.faa.gov/uas/programs_partnerships/data_exchange.*

[15] Part 107 Waiver resources; *https://www.faa.gov/uas/commercial_operators/part_107_waivers.*

[16] For additional questions or information, please contact the FAA UAS Support Center at *https://www.faa.gov/uas/contact_us.*

at *https://usg.valideval.com/teams/USDOT_SMART_2022/signup.* Potential applicants may also request paper copies of materials at:

Telephone: 202–366–4114.

Mail: U.S. Department of Transportation, 1200 New Jersey Avenue SE, W84–322, Washington, DC 20590.

2. Content and Form of Application Submission

The application must include the following: Standard Forms (SF); Key Information Questions; Project Narrative and Summary Budget Narrative. This information must be submitted via Valid Eval at *https://usg.valideval.com/teams/USDOT_SMART_2022/signup.* More detailed information about each application material is provided below.

i. *Standard Forms:* All applicants must submit the following Standard Forms: Application for Federal Assistance (SF–424), Budget Information for Non-Construction Programs (SF–424A), Assurances for Non-Construction Programs (SF–424B). If applicable, also include Assurances for Construction Programs (SF–424D), Budget Information for Construction Programs (SF–424C) and/or Disclosure of Lobbying Activities (SF–LLL).

ii. *Key Information Questions:* This is a preview list of the questions that are asked on USDOT's automated proposal website at *https://usg.valideval.com/teams/USDOT_SMART_2022/signup.* After registering in the system, the applicant will be prompted to answer these questions on the website.

Title	Instructions
1. Project Name	Enter a concise, descriptive title for the project. This should be the same title used in the *Grants.gov* SF–424 submission and the application narrative.
2. Lead Applicant Name	This should be consistent with Q. 8.a. of the SF–424.
3. Lead Applicant Unique Entity Identifier (UEI)	See Section D.3 below for more information about obtaining a UEI from *SAM.gov.*
4. Eligible Entity Type	Indicate the eligible entity type for your application: A. a State; B. a political subdivision of a State; C. a federally recognized Tribal government; D. a public transit agency or authority; E. a public toll authority; F. a metropolitan planning organization; or G. A group application of 2 or more eligible entities described in (A) through (F).
5. Was a similar application submitted in the past two years, or do you anticipate a similar application will be submitted for funding in the coming year for this project under any other USDOT discretionary grant programs?.	(If yes, please include the name of the discretionary grant program, the project title of similar grant application, and the name of the lead applicant, if different than the lead applicant on this application.)
6. Was federal funding previously received for this project?	(If yes, indicate the amount of federal funding received and the relevant grant number.)
7. Is this a group application, through a single, lead-applicant?	(If yes, please provide organizational name(s) of sub-recipient(s) that will receive funds and other key partners.)
8. Is this a collaborative application, with each applicant applying separately?.	(If yes, please indicate the organizational name(s) of the other eligible applicant(s) with which you are collaborating.)
9. What additional organizations will be considered partners on this project?.	(List all critical project partners, including partners that are not eligible applicants. This could include industry, academia, nonprofits, and other traditional and non-traditional partners.) [17]
10. Brief Project Description	Describe the project in plain language, using no more than 100 words. Please do not describe the project's benefits, background, or alignment with the selection criteria in this description field. A longer, narrative description will be provided in the Project Narrative. The Brief Project Description of successful applicant may be published by USDOT and, therefore, must not contain classified, proprietary or confidential information.
11. Primary Project Location	Indicate the primary location at which the project will take place. If more than one location, please list additional locations in the next question.
12. Other Project Locations	Identify additional project locations, if applicable.
13. Community Size	Indicate the size of the community to be supported (large community; midsized community; regional partnership; or rural community). *See* definitions in Section F.1 that your project primarily benefits.
14. Project Location Primary Census Tract	Identify the primary anticipated census tract number(s) of the planned project.
15. Other Project Census Tracts	Identify Census tract information for other anticipated areas of the planned project location, if applicable.
16. Is the project located (entirely or partially) in an Historically Disadvantaged Community?.	Indicate yes or no, and which one of the following two designation methods you are using: (1) Federally designated community development zones (for example: Opportunity Zones, Empowerment Zones, Promise Zones, Choice Neighborhoods, or Rural Partners Network-designated Community Networks). (2) The Climate and Economic Justice Screening Tool (CEJST) via *screeningtool.geoplatform.gov.*
17. Project Cost: Amount Requested	Total dollar amount requested.
18. Project Cost: Total Project Cost	Total project cost, including dollar amount requested and other funding contributions.
19. Proposed Duration of Stage 1 Project (in months)	May be up to 18 months.
20. Technology area(s)	Select the primary technology area with which your project aligns and, if applicable, any secondary technology areas: A. coordinated automation;

Title	Instructions
	B. connected vehicles; C. intelligent, sensor-based infrastructure; D. systems integration; E. commerce delivery and logistics; F. leveraging use of innovative aviation technology; G. smart grid; or H. smart technology traffic signals. *Note that applications are not scored on the number of technology areas indicated, so it is important to only select the area(s) with which your project aligns.*
21. Does this project relate to traffic or parking enforcement; or license plate reader activities?.	Indicate ''Yes'' or ''No.'' Note that SMART grants shall *not* be used for any traffic or parking enforcement activity, or to purchase or lease a license plate reader.
22. Is an exemption, waiver, permit, or special permission required to conduct the proposed project?.	(If yes, indicate the exemption, waiver, permit, or special permission obtained. If waiver has not been obtained, please indicate the plan or process for obtaining it in your Project Narrative.)

iii. *Project Narrative:* The primary purpose of the Narrative is for the applicant to state their case for meeting the merit criteria laid out in Section E. The Narrative should not exceed seven pages; this does not include the Appendices. The Narrative should be in PDF format, with font size of no less than 12-point Times New Roman, single spaced, minimum 1-inch margins on all sides, and with page numbers. Suggested approximate lengths for each subsection are noted in parentheses.

a. Overview/Project Description (1–2 Pages)

This section should provide a clear, concise description of the project, the real-world issues and challenges to be addressed, and the proposed technology(ies) to be used. Include a brief discussion of desired outcomes for a potential Stage 2 grant. Applicants should also briefly discuss how the proposed project addresses the goals of the SMART program and how the project plans to improve upon the status quo of the transportation system.

b. Project Location (1 Paragraph)

This section should provide a description of the geographic area or jurisdiction the project will service, including whether or not the area in question is considered a large, midsized or rural community; whether or not the applicant is a regional partnership; and to what extent the project is located (entirely or partially) in an Historically Disadvantaged Community.[18] Note that while applicants are asked to provide exact locations for each project in the key information table above, if selected for an award, the exact location may be adjusted during the Stage 1 planning process; therefore this section should explain and identify which geographic locations are under consideration for projects to be implemented and what analysis will be used in a final determination. Refer to Section D.2.ii of the Notice to provide specific location data.

c. Community Impact (1 Paragraph)

This section should provide a description of how the project anticipates it will provide and measure benefits to the Historically Disadvantaged Communities detailed in the Project Location Section (If applicable). This section may also outline benefits that would accrue to Historically Disadvantaged Communities outside of the specific project location. Applicants should also briefly discuss potential negative externalities of the proposed projects, who would experience them, and how they might be measured over time.

d. Technical Merit Overview (2 Pages)

This section should provide an overview of the technical merit of the proposed project, responding to the criteria for evaluation and selection in Section E.1.i of this Notice and including a compelling narrative to highlight how the application addresses the following Technical Merit criteria:

- Identification and Understanding of the Problem to Be Solved
- Appropriateness of Proposed Solution
- Expected Benefits

e. Project Readiness Overview (2 Pages)

This section should provide an overview of the project readiness, responding to the criteria for evaluation and selection in Section E.1.ii of this Notice and including a compelling narrative to highlight how the application addresses the following Project Readiness criteria:

- Feasibility of Workplan
- Community Engagement and Partnerships
- Leadership and Qualifications

iv. Appendices

a. Appendix I—Resumes

Applicants should submit the abbreviated resumes of the key individuals involved in the project. This appendix should be no more than three pages.

b. Appendix II—Summary Budget Narrative

Applicants shall provide a summary budget narrative that corresponds to and describes information contained in the applicant's SF–424A. The narrative should describe all planned project costs for Stage 1 (*i.e.,* direct labor, travel, equipment, supplies, contractual, construction, and other) and how these planned costs relate to the project scope. The summary budget narrative must be sufficiently clear, concise, and detailed to describe how funds will be spent on the project. Applicants are expected to account for data and performance reporting in their budget submission, consistent with section B.5.i of this NOFO.

c. Appendix III—Letters of Commitment

Applicants should submit letters of commitment for critical partners involved in the project. This appendix should be no more than 10 pages, and each letter should be no more than 2 pages.

[17] Letters of Commitment should be written for critical partners only. For a Letter of Commitment template, see *www.transportation.gov/SMART.*

[18] In support of Executive Order 14008, USDOT has been developing a geographic definition of Disadvantaged Communities as part of its implementation of the Justice40 Initiative. Consistent with OMB's Interim Guidance for the Justice40 Initiative, Disadvantaged Communities include (a) certain qualifying Census tracts, (b) any Tribal land, or (c) any territory or possession of the United States.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (i) be registered in SAM (*https://sam.gov/content/home*) before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. USDOT may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time USDOT is ready to make an award, USDOT may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant.

4. Submission Date and Time

Applications must be submitted by 5:00 p.m. EST on Friday, November 18, 2022.

5. Funding Restrictions

Per BIL requirements, of the funds awarded each fiscal year for the SMART Grants Program, not more than 40 percent shall be used to provide SMART grants for eligible projects that primarily benefit large communities; not more than 30 percent shall be provided for eligible projects that primarily benefit midsized communities; and not more than 30 percent shall be used to provide SMART grants for eligible projects that primarily benefit rural communities or regional partnerships.

In addition, an eligible entity may not use more than three percent of the amount of a SMART grant for each fiscal year to achieve compliance with applicable planning and reporting requirements.

6. Other Submission Requirements

The complete application must be submitted via Valid Eval, an online submission proposal system used by USDOT at *https://usg.valideval.com/teams/USDOT_SMART_2022/signup.*

E. Application Review Information

1. Criteria

This section specifies the criteria USDOT will use to evaluate and select applications for Stage 1 SMART grant awards. These include Technical Merit Criteria, Project Readiness and Other Considerations.

i. Technical Merit Selection Criteria

Stage 1 Grants will be evaluated against three technical merit criteria:

- Technical Merit Criterion #1: Identification and Understanding of the Problem to Be Solved
  - The applicant demonstrates a thorough understanding of existing conditions
  - The proposed solution addresses a documented and critical problem or need
- Technical Merit Criterion #2: Appropriateness of Proposed Solution
  - Technologies proposed are sufficiently developed such that there is good reason to anticipate public benefits from their use
  - The proposed solution is repeatable and could rapidly be scaled
  - The proposed solution represents a demonstrable improvement over the status quo
  - The proposed solution is appropriate for the location's population density and existing transportation system, including public transportation
- Technical Merit Criterion #3: Expected Benefits
  - The application clearly explains the rationale for expecting that the proposed project will use advanced data, technology, and applications to provide significant benefits in alignment with Departmental and Program Priorities in Section A.3 and A.4.
  - Departmental Priorities include the FY22–26 Strategic Goals and Innovation Principles and Program Priorities include safety, reliability, and resiliency; equity and access; climate; partnerships; and integration

ii. Project Readiness Selection Criteria

Project Readiness focuses on the extent to which the applicant will be able to substantially execute and complete the full scope of work in the Stage 1 Grant application within 18 months of when the grant is executed.

- Project Readiness Criterion #1: Feasibility of Workplan
  - The application clearly describes a thorough and realistic workplan and timeline. The application should also demonstrate the ability to complete the project in the proposed period of performance.
  - The application identifies and understands the legal, policy, and regulatory requirements and identifies and accounts for any relevant exemptions, waivers, permits, or special permissions required to conduct the proposed project.
  - The application identifies ways to measure and validate the project's expected benefits and community impacts, as well as performance improvements and cost savings.
  - The application identifies a practical approach to developing internal workforce capacity regarding data and technology projects, including a plan for an approporiately skilled and trained workforce to carry out the project.
- Project Readiness Criterion #2: Community Engagement and Partnerships
  - The proposed solution demonstrates a community-centered approach that includes meaningful, continuous, accessible engagement with a diverse group of public and private stakeholders. The proposed solution articulates strategies to provide access to persons with disabilities and limited English proficient individuals.
  - The application shows plans to build sustainable partnerships across sectors and governmental jurisdictions and collaborate with industry, academia, and nonprofits, such as community, workforce development, and labor organizations.
  - The applicant engages relevant private sector stakeholders and technical experts and elicits their perspective on implementation of the proposed solution.
  - The application establishes commitment of one or more key partner(s), if relevant, as identified in the project narrative. This should be demonstrated by a Letter of Commitment submitted as an attachment to the proposal, as well as a Memorandum-of-Understanding signed prior to any Grant Agreement. A key partner may be a public agency, utility company, private sector company, or some other entity that is central, and critical, to the project.
- Project Readiness Criterion #3: Leadership and Qualifications
  - The application demonstrates relevant and necessary technical expertise of the project team.
  - The application details relevant experience of leadership in managing multi-stakeholder projects.
  - The application shows continuity of committed leadership and the applicant's functional capacity to carry out the proposed project and, where applicable, to maintain and

operate the project after the conclusion of Stage 2.

iii. Additional Consideration: Benefit to Historically Disadvantaged Communities

The Department seeks to award projects under the SMART Grants Program that address environmental justice, particularly for communities that disproportionally experience climate change-related consequences. Environmental justice, as defined by the Environmental Protection Agency, is 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.[19] As part of the Department's implementation of Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619), the Department seeks to fund projects that, to the extent possible, target at least 40 percent of resources and benefits towards low-income communities, disadvantaged communities, communities underserved by affordable transportation, or overburdened communities. Projects that have not sufficiently considered climate change and environmental justice in their planning, as determined by the Department, will be required to do so before receiving funds.

2. Review and Selection Process

This section addresses the BIL requirement to include a full description in the NOFO of the method by which applicants will be evaluated. The SMART Grant Program review and selection process consists of eligibility reviews, Technical Merit and Project Readiness criteria review, and Senior Review Team review. The Secretary will make the final selections for award.

i. Eligibility Review

For each application, an initial review will assess whether the applicant is eligible (based on eligibility information in Section C) and contains all of the information requested in Section D for a complete application. Eligible and complete applications received by the deadline will be reviewed for their merit based on the selection criteria in Section E.1.i and E.1.ii.

ii. Technical Merit and Project Readiness Criteria Ratings

Teams comprising USDOT staff, Federal inter-agency partner staff, and contractor staff review all eligible and complete applications received by the deadline for a Technical Merit and Project Readiness Review and assign ratings as described in the table below. For each criterion, USDOT will consider whether the application narrative is responsive to the selection criterion focus areas which will result in a rating of 'High,' 'Medium,' 'Low,' or 'Non-Responsive:'

Rating scale	High	Medium	Low	Non-Responsive
Description ...	The application is substantively and comprehensively responsive to the criterion. It makes a strong case about advancing the program goals as described in the criterion descriptions.	The application is moderately responsive to the criterion. It makes a moderate case about advancing the program goals as described in the criterion descriptions.	The application is minimally responsive to the criterion. It makes a weak case about advancing the program goals as described in the criterion descriptions.	The application is counter to the criterion or does not contain sufficient information. It does not advance or may negatively impact criterion goals.

Based on the criteria ratings, an overall application merit rating of 'Highly Recommended,' 'Recommended,' 'Not Recommended,' or 'Ineligible' will be assigned as a result of evaluation team consensus discussion. Only applications rated as 'Highly Recommended' or 'Recommended' will be reviewed by a Senior Review Team (SRT). Applications rated 'Not Recommended' or 'Ineligible' will not be evaluated further and will not be considered for award.

iii. Senior Review Team (SRT) Phase

Once every eligible and complete application has been assigned an overall rating based on the methodology above, all ''Highly Recommended'' applications will be included in a list of Applications for Consideration. The SRT will review whether the list of ''Highly Recommended'' applications is sufficient to ensure that of the funds awarded each fiscal year for the SMART Grants Program, not more than 40 percent will be used to provide SMART grants for eligible projects that primarily benefit large communities; not more than 30 percent will be used to provide SMART grants for eligible projects that primarily benefit midsized communities; and not more than 30 percent will be used to provide SMART grants for eligible projects that primarily benefit rural communities or regional partnerships. ''Recommended'' applications may be added to the proposed list of Applications for Consideration until a sufficient number of applications are on the list to ensure that all the legislative requirements can be met. The Department will consider the diversity of technology areas across all applications when reviewing recommendations.

iv. Highly Rated Applications for USDOT Secretary's Review

The SRT will present the list of Applications for Consideration to the Secretary, either collectively or through a representative of the SRT. The SRT may advise the Secretary on any application on the list of Applications for Consideration, including options for reduced or increased awards, and the Secretary will make final selections. The Secretary's selections identify the applications that best address program requirements and are most worthy of funding. The Secretary will consider contributions to geographic diversity among grant recipients, including the need for balancing the needs of rural communities, midsized communities, and large communities. The Secretary also may consider benefits to economically disadvantaged communities, Federally Recognized Tribes, and geographic and organizational diversity when selecting SMART Grants Program awards.

3. Additional Information

Prior to entering into a grant agreement, each selected applicant will be subject to a risk assessment as required by 2 CFR 200.206. The Department must review and consider any information about the applicant that is in the designated integrity and performance system accessible through

[19] Environmental Justice at the EPA, *http://www.epa.gov/environmentaljustice/*.

SAM (currently the Federal Awardee Performance and Integrity Information System [FAPIIS]). An applicant may review information in FAPIIS and comment on any information about itself that a Federal awarding agency previously entered. The Department will consider comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants. Because award recipients under this program may be first-time recipients of Federal funding, USDOT is committed to implementing the program as flexibly as permitted by statute and to providing assistance to help award recipients through the process of securing a grant agreement and delivering SMART Grant projects. Award recipients are encouraged to identify any needs for assistance in delivering the projects and strategies so that USDOT can provide directly, or through a third party, sufficient support and technical assistance to mitigate potential execution risks.

F. Federal Award Administration Information

1. Federal Award Notices

Following the evaluation outlined in Section E, the Secretary will announce awarded applications by posting a list of selected recipients at *www.transportation.gov/smart.* The posting of the list of selected award recipients will not constitute an authorization to begin performance. Following the announcement, the Department will contact the point of contact listed in the applicant SF–424 to initiate negotiation of a grant agreement.

2. Administrative and National Policy Requirements

i. Critical Infrastructure Security, Cybersecurity, and Resilience

It is U.S. policy to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats. Each applicant selected for Federal funding under this notice must demonstrate, prior to the signing of the grant agreement, effort to consider and address physical and cybersecurity risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cybersecurity and resilience in their planning, design, and project oversight, as determined by USDOT and the Department of Homeland Security, will be required to do so before receiving funds for deployment, consistent with Presidential Policy Directive 21—Critical Infrastructure Security and Resilience and the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems.

ii. Prohibited Telecommunications Equipment and Services

Federal award recipients and sub-recipients are prohibited from obligating or expending grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use ''covered telecommunications equipment or services'' as a substantial or essential component of any system, or as critical technology as part of any system. ''Covered telecommunications equipment or services'' means telecommunications and video surveillance equipment or services produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). ''Covered telecommunications equipment or services'' also includes telecommunications or video surveillance equipment or services provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity that is owned or controlled by the government of the People's Republic of China. Entities added to this list will be incorporated into the excluded parties list in the System for Award Management (SAM) (*www.sam.gov*). When a user conducts a search of the excluded parties list, a record will appear describing the nature of the exclusion for any entity identified as covered by this prohibition. See Section 889 of Public Law 115–232 (National Defense Authorization Act for Fiscal Year 2019) and 2 CFR 200.216 & 200.471.

iii. Domestic Preference Requirements

As expressed in Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers (86 FR 7475),[20] it is the policy of the Executive Branch to maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. Projects under this notice will be subject to the domestic preference requirements at § 70914 of the Build America, Buy America Act, as implemented by OMB and USDOT, and any awards will contain the award terms specified in OMB Memorandum M–22–11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.[21]

Applicants should note that the Department has proposed a Build America, Buy America Act waiver for Stage 1 grants awarded in FY 2022 of the SMART Grants Program for the limited cases where the Buy America would apply for planning and prototyping activities. Data will be collected for Stage 1 FY 2022 awards that will help inform the application of Buy America requirements to the funding of implementation activities under the program and identify any current gaps in the domestic availability of products that could potentially be filled by American suppliers. The Department anticipates finalizing the waiver during the open period. Please consult *www.transportation.gov/smart* for the most up-to-date information.

iv. Civil Rights and Title VI

SMART award recipients should demonstrate compliance with civil rights obligations and nondiscrimination laws, including Titles VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act, and accompanying regulations. Recipients of Federal transportation funding will also be required to comply fully with regulations and guidance for the ADA, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other civil rights requirements. The Department's and the applicable Operating Administrations' Offices of Civil Rights may work with awarded grant recipients as appropriate to ensure full compliance with Federal civil rights requirements.

Recipients of Federal transportation funding will be required to comply fully with regulations and guidance for the ADA, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other civil rights requirements. The Department's and the applicable Operating Administration's Offices of Civil Rights will be providing

[20] *https://www.federalregister.gov/documents/2021/01/28/2021-02038/ensuring-the-future-is-made-in-all-of-america-by-all-of-americas-workers.*

[21] *https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf.*

resources and technical assistance to ensure full and sustainable compliance with Federal civil rights requirements.

v. National Environmental Policy Act of 1969 (NEPA)

Funding recipients must comply with NEPA under 42 U.S.C. 4321 *et seq.* and the Council on Environmental Quality's NEPA implementing regulations at 40 CFR 1500–1508, where applicable.

3. Reporting

This section discusses reporting requirements for SMART.[22] USDOT will provide additional information and detail regarding reporting requirements and formats to recipients. All final reports under this agreement will be made publicly available. All publications resulting from this program shall follow USDOT publication guidelines and comply with the current USDOT Public Access Plan. In addition, data from these efforts are expected to be made widely available where appropriate, also in accordance with the USDOT Public Access Plan.[23]

i. Progress Reporting on Grant Activities

Each applicant selected for a Stage 1 Grant must submit quarterly progress reports and Federal Financial Reports (SF–425) to monitor project progress and ensure accountability and financial transparency in the SMART grant program. A standard reporting form for the quarterly progress reports will be provided for grantees to summarize status updates including activities accomplished during the quarter, financial and schedule reporting, anticipated activities for the next quarter, and a description of project challenges and lessons learned.

ii. Evaluation and Data Management Plan

Recipients and subrecipients are required to incorporate program evaluation including associated data collection activities, from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting agency priority goals.[24]

Each applicant selected for a Stage 1 Grant must submit an evaluation and data management plan no later than three months after receiving the grant that provides an overview of how the project will be evaluated and how the data being collected will be managed and stored.[25] The plan must describe the anticipated impact areas (*i.e.,* goals) of the project if implemented at scale and the methods that will be used to estimate the anticipated benefits and costs associated with implementation. Based on these project goals, the plan must include robust performance metrics and measurable targets to inform whether the proof-of-concept or prototype meets expectations and whether full implementation would meet program goals. The applicants selected for a Stage 2 Grant must update this evaluation and data management plan to include robust performance metrics and targets for the at-scale implementation, a detailed description of the evaluation methods that will be used to measure the anticipated impacts, and an overview of data sharing opportunities.[26] The updated plan must also provide more detailed information on the types of data being collected and how that data will be managed and stored (*e.g.,* cybersecurity practices, how privacy is protected, the entities that have access to the data).

iii. Implementation Report

Each applicant selected for a Stage 1 Grant must submit an implementation report that assesses the anticipated costs and benefits of the project and demonstrates the feasibility of at-scale implementation. A draft report shall be submitted no later than one year after receiving the grant, and the final report shall be submitted by the end of the period of performance. This timeline may be adjusted for projects with a period of performance that differs from 18 months.

Per BIL requirements, grant recipients must submit implementation reports that describe the deployment and operational costs of each project as compared to the benefits and savings from the project. The reports must also describe:

1. the means by which the project has met the original expectation, as projected in the grant application, including data describing the means by which the project met the specific goals. Examples include:

a. reducing traffic-related fatalities and injuries;

b. reducing traffic congestion or improving travel-time reliability;

c. the effectiveness of providing to the public real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions; and

d. reducing barriers or improving access to jobs, education, or various essential services;

2. lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

For the implementation reports during Stage 1, grant recipients will provide an analysis of the anticipated costs and benefits and address project expectations by providing:

1. data on the performance metrics for the proof-of-concept or prototype;

2. preliminary baseline data for an evaluation of an at-scale implementation;[27]

3. a detailed description of the communities that would be impacted by at scale implementation and the anticipated distribution of benefits;

4. additional quantitative data to substantiate key assumptions;

5. anticipated and/or estimated impact and effectiveness of the project based on the performance metrics; and

6. anticipated and/or estimated distribution of benefits within the community being served.

During Stage 1, grant recipients may uncover previously unknown institutional barriers or technical limitations. In the implementation report, grantees will describe the requirements for successful deployment and assess the feasibility of an at-scale implementation. The assessment will include identified strategies or demonstrated progress in addressing the following implementation feasibility and readiness factors by the end of the Stage 2 Grant.

a. Legal, Policy, and Regulatory Requirements (*e.g.,* environmental permits and reviews; public outreach; State and local approvals; equity and accessibility requirements)

b. Procurement and Budget (*e.g.,* availability of suppliers and equipment; an analysis of the cost differential to comply with Build America Buy America; reliability of cost estimates; critical property acquisition)

[22] Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. 115–435 (2019) urges federal awarding agencies and federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle.

[23] *https://www.transportation.gov/sites/dot.gov/files/docs/Official%20DOT%20Public%20Access%20Plan.pdf.*

[24] Evaluation means ''an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.'' 5 U.S.C. 311.

[25] Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A–11, Part 6 Section 290).

[26] Data sharing opportunities may include either interagency data sharing or open data sharing with the public.

[27] For applicants selected for a Stage 2 Grant, refined or updated baseline data may be required for the project evaluation.

c. Partnerships (*e.g.,* MOUs for stakeholder coordination; private sector and user adoption and acceptance)

d. Technology Suitability (*e.g.,* systems engineering including Concept of Operations [ConOps] and Detailed Design; reliability and maturity of technology; compatibility with existing infrastructure, procurement processes)

e. Data Governance (*e.g.,* storage capability; database analytic capability; integration requirements; sharing agreements; cybersecurity and privacy protocols)

f. Workforce Capacity (*e.g.,* availability of workforce from development and installation to operations and maintenance; availability of workforce training; agency capacity for deployment, operation, and evaluation)

g. Sustainability (*e.g.,* agency/institutional capacity for continued operations following the grant funded period; revenue needs for continued operations)

h. Community Impact (*e.g.,* distribution of benefits and negative impacts across the community, including Historically Disadvantaged Communities; meaningful community engagement efforts, including strategies to provide access to persons with disabilities and limited English proficient individuals)

i. Other Relevant Factors.

The final implementation report must also describe initial project goals, challenges and lessons learned related to implementation. It should include an analysis of the success, challenges and validity of the initial approach; any changes or improvements they would make in Stage 2, if recommended for award; and any anticipated challenges to continued maintenance and operations (*i.e.,* after the Stage 2 grant funds have been expended).

iv. Program Evaluation

As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by USDOT or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. USDOT may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or USDOT staff; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or USDOT staff.

v. Reporting of Matters Related to Recipient Integrity and Performance

If the *total* value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from *all* Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

vi. Knowledge Transfer Activities

In order to disseminate lessons learned to the public and to encourage collaboration between recipients, USDOT will coordinate various knowledge transfer activities which may include webinars, peer exchanges or attendance at conferences and meetings. The activities will be tailored to address the needs and interests of the grantees and serve as a resource for connecting grantees facing similar technical and institutional challenges. Recipients will share status updates and technical knowledge, and exchange information about their progress, challenges, and lessons learned. The SF–424A should include travel costs, assuming two in-person meetings in Washington, DC.

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact the Office of the Assistant Secretary for Research and Technology via email at *smart@dot.gov* no later than ten business days prior to the NOFO closing. In addition, up to the application deadline, the Department will post answers to common questions and requests for clarifications on the Department's website at *www.transportation.gov/smart.* To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact the Department directly with questions, rather than through intermediaries or third parties. Department staff may also conduct briefings on the SMART grant selection and award process upon request. On request of an eligible entity that submitted an application per Section D with respect to a project that is not selected for a SMART grant, Department staff will provide to the eligible entity technical assistance and briefings relating to the project.

H. Other Information

User-friendly information and resources regarding USDOT's discretionary grant programs relevant to rural applicants can be found on the Rural Opportunities to Use Transportation for Economic Success (ROUTES) website at *transportation.gov/rural.*

1. Definitions

Term	Definition
Large community	A community with a population of not less than 400,000 individuals, as determined under the most recent annual estimate of the Bureau of the Census.
Midsized community	Any community that is not a large community or a rural community.
Political subdivision of a state	A unit of government created under the authority of State law. This includes cities, towns, counties, special districts, and similar units of local government, such as public port or airport authorities, if created under State law.
Regional partnership	A partnership composed of two or more eligible entities located in jurisdictions with a combined population that is equal to or greater than the population of any midsized community.
Rural community	The term ''rural community'' means a community that is located in an area that is outside of an urbanized area (as defined in section 5302 of title 49, United States Code, which defines ''rural'' as a community with a population of less than 50,000 individuals).

Term	Definition
Resiliency	The ability to prepare for and adapt to changing conditions and withstand, recover, and reorganize rapidly from disruptions to a community (*e.g.*, population, economy, etc.). Resilience includes the ability to withstand and recover from manmade and naturally occurring threats or incidents, including widespread and long-term threats or incidents.
Historically Disadvantaged Community.	For the purposes of the SMART NOFO, applicants may demonstrate the ''historical disadvantage'' of the project area according to ONE of the following tools: (1) Federally designated community development zones (for example: Opportunity Zones, Empowerment Zones, Promise Zones, Choice Neighborhoods, or Rural Partners Network-designated Community Networks). (2) The Climate and Economic Justice Screening Tool (CEJST) via *screeningtool.geoplatform.gov*.

Issued in Los Angeles, CA, on September 19, 2022.

Tara Lanigan,

Program Analyst.

[FR Doc. 2022–20597 Filed 9–22–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number: DOT–OST–2014–0031]

Agency Information Collection; Activity Under OMB Review; Passenger Origin-Destination Survey Report

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 14, 2022. No comments were received.

DATES: Written comments should be submitted by October 24, 2022.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: OST Desk Officer.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department. Comments should address whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: James Bouse, Office of Airline Information, RTS–42, Room E34–441, OST–R, BTS, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone Number (202) 366–4876, Fax Number (202) 366–3383 or email *james.bouse@dot.gov.*

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: OST Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2139–0013

Title: Passenger Origin-Destination Survey Report.

Form No.: None.

Type of Review: Extension of a currently approved collection.

Respondents: Large certificated air carriers that provide scheduled passenger service.

Number of Respondents: 54.

Total Number of Annual Responses: 216.

Estimated Time per Response: 60 hours.

Total Annual Burden: 12,960 hours.

Needs and Uses: Survey data are used in monitoring the airline industry, negotiating international agreements, reviewing requests for the grant of anti-trust immunity for air carrier alliance agreements, selecting new international routes, selecting U.S. carriers to operate limited entry foreign routes, and modeling the spread of contagious diseases. The Passenger Origin-Destination Survey Report is the only aviation data collection by DOT where the air carriers report the true origins and destinations of passengers' flight itineraries. The Department does have another aviation data collection (T–100) which (1) gives passenger totals for city-pairs served on a nonstop basis and (2) market totals for passengers traveling on a single flight number. If the passenger travels on multiple flight numbers, a new market is recorded for each change in flight number.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on September 20, 2022.

William Chadwick, Jr.,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2022–20685 Filed 9–22–22; 8:45 am]

BILLING CODE 4910–9X–P

FEDERAL REGISTER

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Part II

Federal Communications Commission

47 CFR Part 74
Establishing Rules for Digital Low Power Television and Television Translator Stations; Final and Proposed Rules

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket Nos. 03–185 and 22–261; FCC 22–58; FR ID 104614]

Establishing Rules for Digital Low Power Television and Television Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts several rule updates to otherwise outdated rules for low power television and TV translator stations following the July 13, 2021, transition from analog to digital operations. This final rule deletes or revises rules that no longer have any practical effect given the completion of the low power television (LPTV)/translator digital transition, or that are otherwise obsolete or irrelevant. In addition, this final rule makes certain ministerial changes, for example, to delete analog rules, and to add definitions and other information previously adopted in rulemaking proceedings but inadvertently omitted from the rules.

DATES: Effective October 24, 2022.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order,* in MB Docket Nos. 03–185, 22–261; FCC 22–58, adopted on July 12, 2022, and released on July 13, 2022, and revised in Erratum, released September 9, 2022. The full text of this document is available for download at *https://docs.fcc.gov/public/attachments/FCC-22-58A1.pdf.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

Synopsis

On October 25, 2021, in connection with the completion of the incentive auction and broadcast television spectrum repacking authorized by the Middle Class Tax Relief and Job Creation Act, the Commission adopted a new Table of TV Allotments for full power television stations and also amended part 74 to remove references to channels and frequency bands that are no longer in-core television spectrum and/or references to analog TV operations which were no longer permitted (86 FR 66193 (Nov. 22, 2021)). The Commission stated in that order that in a future proceeding, it would conduct a review of its rules to delete provisions relating to analog television and update other rules pertaining to television. This item is part of that ongoing effort.

The Digital Transition and Analog Termination Deadlines. Full power television stations largely completed their transition from analog to digital operations by June 12, 2009, and Class A television stations did the same by September 1, 2015. In 2011, when the Commission first adopted a digital transition deadline for LPTV/translators and established September 1, 2015, as the deadline (the ''original transition deadline''), it found that ''the Communications Act compelled low power television stations ultimately to convert to digital operation.'' The Commission reasoned that ''allowing low power stations to continue operating in analog . . . would prevent consumers from enjoying the benefits of digital broadcast technology, including improved picture and sound quality, and additional program offerings through multicasting.''

In the 2015 *Low Power Television Digital Transition Third Report and Order (LPTV DTV Third R&O)* (81 FR 5041 (Feb. 1, 2016)), the Commission recognized that the incentive auction would likely have a significant impact on LPTV/translator digital conversion plans and therefore extended the original transition deadline to 12 months after the completion of the 39-month post-incentive auction transition period, which became July 13, 2021. The Commission also set July 13, 2021, as the analog termination deadline—the date by which all LPTV/translator stations were required to terminate all analog television operations, regardless of whether their digital facilities were operational. When extending the digital transition and analog termination deadline in 2015, the Commission affirmed its commitment to completing the LPTV/translator digital transition by a date certain, concluding that the new deadline must continue to be a ''hard deadline'' when all LPTV/translator stations terminate all analog operations regardless of whether their digital facilities are operational. The LPTV/translator transition was successfully completed, and the vast majority (97%) of LPTV/translator stations completed their transition and are now operating in digital. Thus, analog television is now a legacy service.

Deletion of Obsolete Rules Recognizing the Digital Transition. Given that LPTV/translator stations have ceased analog operations, we adopt revisions to certain part 74 rules. Because these revisions to the rules described in this section of this final rule merely eliminate provisions of the rules that are obsolete due to the conversion from analog to digital television technology, we find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose. *See* 5 U.S.C. 553(b)(3)(B) (providing that notice and comment are not required ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'').

Specifically, we eliminate in their entirety rules that provide for analog-to-analog and analog-to-digital interference protection requirements and other analog operating requirements, including: 47 CFR 74.706 (Digital TV (DTV) station protection); 74.707 (Low power TV and TV translator station protection); and 74.761 (Frequency tolerance). Where these rules are referred to in other rules, the digital licensing rule number is substituted. *See, e.g.,* 47 CFR 74.703(a) (Interference). The digital-to-digital interference protection standards are found in §§ 74.792 (Low power TV and TV translator station protected contour) and 74.793(b) (Low power TV and TV translator station protection of broadcast stations) of the rules. The ''purpose and permissible service requirements'' currently found in § 74.731 will now be found in § 74.790 (Permissible service of TV translator and LPTV stations). We also delete 47 CFR 74.736 (Emissions and bandwidth), which applies solely to analog television broadcasting, and remove analog references from 47 CFR 74.793(b), (c), (f), and (h).

We also eliminate the viewer notification requirement that terminated at the end of the digital transition on July 13, 2021, and the pre-transition digital construction period processing procedures. *See* 47 CFR 74.798 (Digital television transition notices by broadcasters). This rule required stations to notify viewers of their transition from analog to digital and that requirement ended with the LPTV/translator stations' successful transition to digital operations. Since all stations were required to complete their digital conversion by July 13, 2021, and are either operating in digital or are silent, the rule is now obsolete. We also delete 47 CFR 74.788 (Digital construction period). This rule provided, in part, for

certain LPTV/translator stations to apply for a single six-month extension of their digital construction permit past the July 13, 2021, digital transition deadline, and set out construction responsibilities of Class A and LPTV/translator stations holding both analog and digital construction permits. The extended six-month time period ended January 10, 2022. LPTV/translator permittees, and licensees holding construction permits, are subject to the three-year construction period and tolling provisions set forth in 47 CFR 73.3598(a) and (b).

We also amend rule headings and language in rules to remove references to DTV, digital, and analog television service. Because LPTV/translators transitioned from analog to digital operations, there is no further need to differentiate between digital and analog or to reference analog service in the following rules: 47 CFR 74.701(b) (Definitions—Primary station); (j) (Digital television broadcast translator station); (k) (Digital low power TV station); (m) (Existing low power television or television translator station); (n) (Suitable in core channel); 74.735(b) (Power limitations); 74.787(a) and (b) (Digital licensing). Digital replacement translators and digital-to-digital replacement translators may continue to seek displacement if necessary, under § 74.787(a)(4) (Displacement applications), even though the specific language in § 74.787(a)(5)(i) is being removed because it is obsolete. In addition, because LPTV/translator permittees and licensees holding construction permits are subject to the three-year construction period and tolling provision set forth in 47 CFR 73.3598(a) and (b), the requirements set forth in 47 CFR 74.787(a)(5)(ii) are obsolete.

We similarly remove the differentiations between digital and analog and references to analog service in 47 CFR 74.790(a) through (k) (Permissible service of digital TV translator and LPTV stations); 74.791(a) through (c) (Digital call signs); 74.793(a) and (b) (Digital low power TV and TV translator station protection of broadcast stations); 74.794(a)(1) (Digital emissions); 74.795(a) and (b) (Digital low power TV and TV translator transmission system facilities); and 74.796(a) (Modification of digital transmission systems and analog transmission systems for digital operation).

We also delete references to analog interference rules. *See* 47 CFR 74.735(c) (Power limitations).

Finally, we amend rule headings and language in rules to eliminate references to television boosters and UHF translator signal boosters, which were analog services, in the following rules: 47 CFR part 74, subpart G heading; 47 CFR 74.701(i) (Definitions—Television broadcast booster station); 74.702(c) (Channel assignments); 74.703(a) through (c) and (i) (Interference); 74.732(g) and (h) (Eligibility and licensing requirements); 74.734(a) (Attended and unattended operation); 74.735(b) (Power limitations); 74.751(b)(1) (Modification of transmission systems); 74.763(a) and (c) (Time of operation); 74.780 (Heading—Broadcast regulations applicable to translators and low power and booster stations); 74.781(a) and (c) (Station records); 74.784(d) (Rebroadcasts); 74.792(a) (Digital low power TV and TV translator station protected contour); 74.733 (UHF translator signal boosters); and 74.701(e) (Definitions—UHF translator signal booster). Analog UHF translator signal boosters were first authorized in 1963, 28 FR 13722, 13724 (1963), decades before the advent of digital television. At that time, the Commission also adopted rules that distinguished between VHF (channels 2 through 13) and UHF (channels 70 through 83) translators, *id.,* which did not carry over into digital processing and operations. Accordingly, we also delete 47 CFR 74.701(c) and (d) (Definitions—VHF Translator and UHF Translator) and language in 47 CFR 74.702(a)(1) and (2) (Channel assignments) that refers to these facilities.

We also delete references to companion digital channels, which referred to digital channels associated with stations' authorized analog channels, and digital conversion channels, which referred to previously authorized analog channels that were converted to digital operations. *See* 47 CFR 74.701(o) and (p) (Definitions—Companion digital channel and Digital conversion channel); and 74.787(a)(1) and (2) (Digital licensing—Applications for digital conversion and Applications for companion digital channel).

Additional Ministerial Rule Updates. We adopt additional non-substantive, technical revisions to certain part 74 rules as set forth in the final regulations and further described below. We amend certain rules to provide LPTV/translator licensees and permittees with accurate information about current Commission forms. *See* 47 CFR 74.751(b) (Modification of transmission systems); 74.787(a)(3) and (4) (Digital licensing); and 74.797 (Biennial Ownership Reports). We note that the numbering of our forms has changed with the transition of the Commission's broadcast licensing database from the Consolidated Database System (CDBS) to the Licensing and Management System (LMS). *See also* 47 CFR 74.703(a) (updating location of Commission's main office).

We also delete duplicate sections that were contained in both the analog and digital portions of part 74 in the following rules: 47 CFR 74.701(g) (Program origination). This section mirrored the digital-specific rule in 47 CFR 74.701(l) (Digital program origination), which we retain. We modify 47 CFR 74.789 (Broadcast regulations applicable to digital low power television and television translators), 74.787(a)(5)(viii), and 74.780 of the Commission's rules (Broadcast regulations applicable to translators, low power, and booster stations) to delete some rules that no longer exist and correct the headings of some rules. We also delete 47 CFR 74.731 (Purpose and permissible service) because it is largely repeated at 47 CFR 74.790 (Permissible service of digital TV translator and LPTV stations), with the exception of § 74.731(m), which has been moved to § 74.790(m). Finally, we retain pertinent text from 47 CFR 74.790(f), and move it to paragraph (l) of that section, and make non-substantive editorial changes for clarity.

We also add definitions of analog-to-digital replacement translators (DRTs) and digital-to-digital replacement translators (DTDRTs). *See* 47 CFR 74.701 and 74.787(a)(5). The definitions were adopted in the Commission's order creating the digital-to-digital translator service in *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations,* MB Docket No. 03–185, Third Report and Order, 81 FR 5041 (Feb. 1, 2016), and Fourth Notice of Proposed Rulemaking, 81 FR 5086 (Feb. 1, 2016), 30 FCC Rcd 14927, 14956–57, para. 65 (2015) and in the order creating the analog-to-digital replacement translator service in *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations,* MB Docket No. 08–253, 74 FR 23650 (May 20, 2009), Report and Order, 24 FCC Rcd 5931, 5933, para. 4 (2009).

We also add an explanatory note to § 74.709 to reference and explain the existence of a granted waiver with respect to the community of Los Angeles, California. Section 74.709 of the rules requires LPTV/translator stations to protect certain channels for use by the land mobile radio service (LMRS) in thirteen U.S. cities listed in

the rule. In 2008, the Commission's Public Safety and Homeland Security Bureau (PSHSB) granted a waiver pursuant to section 337(c) of the Communications Act, as amended, allowing the County of Los Angeles to use channel 15 in Los Angeles for public safety communications. *See Request for Waiver of the Commission's Rules to Authorize Public Safety Communications in the 476–482 MHz Band (County of Los Angeles, California),* Order, 23 FCC Rcd 18389 (PSHSB 2008). Because this channel is adjacent to two channels contained in § 74.709, we believe the public interest is served by including a note explaining the existence of the 2008 waiver.

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will also send a copy of the Order to Congress and the Government Accountability office, pursuant to 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 74

Low Power TV, TV translator stations.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Regulations

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 74 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 1. The authority citation for part 74 is revised to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 325, 336 and 554.

■ 2. The heading for subpart G is revised to read as follows:

Subpart G—Low Power TV and TV Translator Stations

■ 3. Section 74.701 is amended by:
■ a. Revising paragraphs (b), (c), and (d);
■ b. Removing and reserving paragraphs (e), (g), and (i);
■ c. Revising paragraphs (j), (k), and (m); and
■ d. Removing paragraphs (n), (o), and (p).

The revisions read as follows:

§ 74.701 Definitions.

* * * * *

(b) *Primary station.* The television station which provides the programs and signals being retransmitted by a television broadcast translator station.

(c) *Analog to Digital Replacement Translator (DRT).* A television translator licensed to a full power television station that allows it to restore service to any loss areas that may have occurred as a result of its transition from analog to digital.

(d) *Digital to Digital Replacement Translator (DTDRT).* A television translator licensed to a full power television station that allows it to restore service to any loss areas that may have occurred as a result of the station being assigned a new channel pursuant to the Incentive Auction and repacking process.

* * * * *

(j) *Television broadcast translator station (''TV translator station'').* A station operated for the purpose of retransmitting the programs and signals of a television broadcast station, without significantly altering any characteristic of the original signal other than its frequency, for the purpose of providing television reception to the general public.

(k) *Low power TV station (''LPTV station'').* A station authorized under the provisions of this subpart that may retransmit the programs and signals of a television broadcast station, may originate programming in any amount greater than 30 seconds per hour for the purpose of providing television reception to the general public and, subject to a minimum video program service requirement, may offer services of an ancillary or supplementary nature, including subscription-based services. (*See* § 74.790.)

* * * * *

(m) *Existing low power television or television translator station.* When used in this subpart, the terms existing low power television and existing television translator station refer to a low power television station or television translator station that is either licensed or has a valid construction permit.

■ 4. Section 74.702 is amended by:
■ a. Revising paragraphs (a)(1) and (2); and
■ b. Removing and reserving paragraph (c).

The revisions read as follows:

§ 74.702 Channel assignments.

(a) * * *

(1) Any one of the 12 standard VHF Channels (2 to 13 inclusive) may be assigned to a low power TV or TV translator station.

(2) Any one of the UHF Channels from 14 to 36, inclusive, may be assigned to a low power TV or TV translator station. In accordance with § 73.603(c) of this chapter, Channel 37 will not be assigned to such stations.

* * * * *

■ 5. Section 74.703 is amended by:
■ a. Revising paragraphs (a) and (b) and the first sentence of paragraph (c); and
■ b. Removing and reserving paragraph (i).

The revisions read as follows:

§ 74.703 Interference.

(a) An application for a new low power TV or TV translator station or for a change in the facilities of such an authorized station will not be granted when it is apparent that interference will be caused. Except where there is a written agreement between the affected parties to accept interference, or where it can be shown that interference will not occur due to terrain shielding and/or Longley-Rice terrain dependent propagation methods, the licensee of a new low power TV or TV translator station shall protect existing low power TV and TV translator stations from interference within the protected contour defined in § 74.792 and shall protect existing Class A TV stations within the protected contours defined in § 73.6010 of this chapter. Such written agreement shall accompany the application. Copies of OET Bulletin No. 69 may be inspected during normal business hours at the Federal Communications Commission's Reference Information Center, located at the address of the FCC's main office indicated in 47 CFR 0.401(a). This document is also available through the internet on the FCC Home Page at *https://www.fcc.gov/oet/info/documents/bulletins/#69.*

(b) It shall be the responsibility of the licensee of a low power TV or TV translator station to correct at its expense any condition of interference to the direct reception of the signal of any full-power TV broadcast station operating on the same channel as that used by the low power TV or TV translator station or an adjacent channel

which occurs as a result of the operation of the low power TV or TV translator station. Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the low power TV or TV translator station, regardless of the quality of the reception or the strength of the signal so used. If the interference cannot be promptly eliminated by the application of suitable techniques, operation of the offending low power TV or TV translator station shall be suspended and shall not be resumed until the interference has been eliminated. If the complainant refuses to permit the low power TV or TV translator station to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the low power TV or TV translator station is absolved of further responsibility.

(c) It shall be the responsibility of the licensee of a low power TV or TV translator station to correct any condition of interference which results from the radiation of radio frequency energy outside its assigned channel.

* * *

* * * * *

§ 74.706 [Removed and Reserved]

■ 6. Remove and reserve § 74.706.

§ 74.707 [Removed and Reserved]

■ 7. Remove and reserve § 74.707.

■ 8. Section 74.709 is amended by adding a note at the end of the section to read as follows:

§ 74.709 Land mobile station protection.

* * * * *

Note 1 to § 74.709. The Chief, Public Safety and Homeland Security Bureau waived the rules of this section to allow channel 15 to be used for land mobile operation in Los Angeles County, CA (DA 08–2823; adopted December 30, 2008). Notwithstanding the channels listed in paragraph (a) or (b)(2) of this section, the waiver requires LPTV and translator stations to protect this land mobile operation.

§ 74.731 [Removed and Reserved]

■ 9. Remove and reserve § 74.731.

§ 74.732 [Amended]

■ 10. Section 74.732 is amended by removing and reserving paragraphs (g) and (h).

§ 74.733 [Removed and Reserved]

■ 11. Remove and reserve § 74.733.

■ 12. Section 74.734 is amended by revising paragraph (a) introductory text to read as follows:

§ 74.734 Attended and unattended operation.

(a) Low power TV and TV translator stations may be operated without a designated person in attendance if the following requirements are met:

* * * * *

■ 13. Section 74.735 is amended by revising paragraphs (b) introductory text and (b)(2) and the first sentence of paragraph (c) introductory text to read as follows:

§ 74.735 Power limitations.

* * * * *

(b) The maximum ERP of a low power TV or TV translator station (average power) shall not exceed:

* * * * *

(2) 15 kW for UHF channels 14–36.

(c) The limits in paragraph (b) of this section apply separately to the effective radiated powers that may be obtained by the use of horizontally or vertically polarized transmitting antennas. * * *

* * * * *

§ 74.736 [Removed and Reserved]

■ 14. Remove and reserve § 74.736.

■ 15. Section 74.751 is amended by revising paragraphs (b) introductory text and (b)(1) to read as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(b) Formal application (FCC Form 2100, Schedule C) is required for any of the following changes:

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been certificated by the FCC for use by low power TV and TV translator stations, or any change which could result in a change in the electrical characteristics or performance of the station.

* * * * *

§ 74.761 [Removed and Reserved]

■ 16. Remove and reserve § 74.761.

■ 17. Section 74.763 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 74.763 Time of operation.

(a) A low power TV or TV translator station is not required to adhere to any regular schedule of operation. However, the licensee of a TV translator station is expected to provide service to the extent that such is within its control and to avoid unwarranted interruptions in the service provided.

* * * * *

(c) Failure of a low power TV or TV translator station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuation of operation and the license of the station may be cancelled at the discretion of the FCC. * * *

* * * * *

■ 18. Revise § 74.780 to read as follows:

§ 74.780 Broadcast regulations applicable to translators and low power stations.

The following rules are applicable to TV translator and low power TV stations:

(a) 47 CFR part 5—Experimental authorizations.

(b) 47 CFR 73.658—Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

(c) 47 CFR part 11—Emergency Alert System (for low power TV stations locally originating programming as defined by § 74.701(h)).

(d) 47 CFR 73.1030—Notifications concerning interference to radio astronomy, research, and receiving installations.

(e) 47 CFR 73.1206—Broadcast of telephone conversations.

(f) 47 CFR 73.1207—Rebroadcasts.

(g) 47 CFR 73.1208—Broadcast of taped, filmed, or recorded material.

(h) 47 CFR 73.1211—Broadcast of lottery information.

(i) 47 CFR 73.1212—Sponsorship identifications; list retention; related requirements.

(j) 47 CFR 73.1216—Licensee-conducted contests.

(k) 47 CFR 73.1515—Special field test authorizations.

(l) 47 CFR 73.1615—Operation during modification of facilities.

(m) 47 CFR 73.1635—Special temporary authorizations (STA).

(n) 47 CFR 73.1650—International agreements.

(o) 47 CFR 73.1680—Emergency antennas.

(p) 47 CFR 73.1692—Reserved.

(q) 47 CFR 73.1940—Legally qualified candidates for public office.

(r) 47 CFR 73.2080—Equal employment opportunities (for low power TV stations only).

(s) 47 CFR 73.3500—Application and report forms.

(t) 47 CFR 73.3511—Applications required.

(u) 47 CFR 73.3512—Where to file; number of copies.

(v) 47 CFR 73.3513—Signing of applications.

(w) 47 CFR 73.3514—Content of applications.

(x) 47 CFR 73.3516—Specification of facilities.

(y) 47 CFR 73.3517—Contingent applications.

(z) 47 CFR 73.3518—Inconsistent or conflicting applications.

(aa) 47 CFR 73.3519—Repetitious applications.

(bb) 47 CFR 73.3521—Mutually exclusive applications for low power TV and TV translator stations.

(cc) 47 CFR 73.3522—Amendment of applications.

(dd) 47 CFR 73.3525—Agreements for removing application conflicts.

(ee) 47 CFR 73.3533—Application for construction permit or modification of construction permit.

(ff) 47 CFR 73.3536—Application for license to cover construction permit.

(gg) 47 CFR 73.3538(a)(1), (3), and (4) and (b)—Application to make changes in an existing station.

(hh) 47 CFR 73.3539—Application for renewal of license.

(ii) 47 CFR 73.3540—Application for voluntary assignment or transfer of control.

(jj) 47 CFR 73.3541—Application for involuntary assignment of license or transfer of control.

(kk) 47 CFR 73.3542—Application for emergency authorization.

(ll) 47 CFR 73.3544—Application to obtain a modified station license.

(mm) 47 CFR 73.3545—Application for permit to deliver programs to foreign stations.

(nn) 47 CFR 73.3550—Requests for new or modified call sign assignments.

(oo) 47 CFR 73.3561—Staff consideration of applications requiring Commission action.

(pp) 47 CFR 73.3562—Staff consideration of applications not requiring action by the Commission.

(qq) 47 CFR 73.3564—Acceptance of applications.

(rr) 47 CFR 73.3566—Defective applications.

(ss) 47 CFR 73.3568—Dismissal of applications.

(tt) 47 CFR 73.3572—Processing of TV broadcast, low power TV, and TV translator station applications.

(uu) 47 CFR 73.3580—Local public notice of filing of broadcast applications.

(vv) 47 CFR 73.3584—Petitions to deny.

(ww) 47 CFR 73.3587—Informal objections.

(xx) 47 CFR 73.3591—Grants without hearing.

(yy) 47 CFR 73.3593—Designation for hearing.

(zz) 47 CFR 73.3594—Local public notice of designation for hearing.

(aaa) 47 CFR 73.3597—Procedures on transfer and assignment applications.

(bbb) 47 CFR 73.3598—Period of construction.

(ccc) 47 CFR 73.3601—Simultaneous modification and renewal of license.

(ddd) 47 CFR 73.3603—Special waiver procedure relative to applications.

(eee) 47 CFR 73.3612—Annual employment report (for low power TV stations only).

(fff) 47 CFR 73.3613—Availability to FCC of station contracts (network affiliation contracts for low power TV stations only).

■ 19. Section 74.781 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 74.781 Station records.

(a) The licensee of a low power TV or TV translator station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

* * * * *

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator, except that the station records of a translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. * * * * * * * * *

§ 74.784 [Amended]

■ 20. Section 74.784 is amended by removing and reserving paragraph (d) and removing the parenthetical authority citation at the end of the section.

■ 21. Section 74.787 is amended by:

■ a. Revising the section heading and paragraph (a) heading;

■ b. Removing and reserving paragraphs (a)(1) and (2);

■ c. Revising the fourth sentence of paragraph (a)(3) and paragraphs (a)(4) and (a)(5)(i);

■ d. Removing and reserving paragraph (a)(5)(ii);

■ e. Revising paragraph (a)(5)(iii);

■ f. Removing and reserving paragraph (a)(5)(iv);

■ g. Removing the first sentence of paragraph (a)(5)(v); and

■ h. Revising paragraphs (a)(5)(vii) and (viii), (b) heading, and (b)(1) introductory text.

The revisions read as follows:

§ 74.787 Licensing.

(a) *Applications for low power television and television translator stations.* * * *

(3) * * * Such applications shall be accepted on a first-come, first-served basis, and shall be filed on FCC Form 2100, Schedule C. * * *

(4) *Displacement applications.* A low power television, television translator, or DRT or DTDRT station which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized TV broadcast station or allotment or other protected station or service, may at any time file a displacement relief application for change in channel, together with technical modifications that are necessary to avoid interference or continue serving the station's protected service area, provided the proposed transmitter site is not located more than 30 miles from the reference coordinates of the existing station's community of license. *See* § 76.53 of this chapter. A displacement relief application shall be filed on FCC Form 2100, Schedule C, and will be considered a minor change and will be placed on public notice for a period of not less than 30 days to permit the filing of petitions to deny. These applications will not be subject to the filing of competing applications. Where a displacement relief application for a low power television or television translator station becomes mutually exclusive with the application(s) for new low power television or television translator stations, or with other non-displacement relief applications for facilities modifications of low power television or television translator stations, priority will be afforded to the displacement application for the low power television or television translator station to the exclusion of other applications. Mutually exclusive displacement relief applications for low power television and television translator stations shall be resolved via the Commission's rules in part 1 of this chapter and broadcast competitive bidding rules in §§ 1.2100 through 1.2209 and 73.5000 through 73.5009 of this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to § 73.5002(d) of this chapter.

(5) * * *

(i) Applications for new DRTs and DTDRTs are no longer accepted.

* * * * *

(iii) Displacement applications for DRTs and DTDRTs shall be given processing priority over all other low power television and TV translator new, minor change, or displacement applications except displacement applications for other DRTs and

DTDRTs with which they shall have co-equal priority.

* * * * *

(vii) Analog-to-digital and digital-to-digital replacement television translators may operate only on those television channels designated for broadcast television in § 74.702.

(viii) The following sections are applicable to analog-to-digital and digital-to-digital replacement television translator stations:

(A) Section 74.703—Interference.

(B) Section 74.709—Land mobile station protection.

(C) Section 74.734—Attended and unattended operation.

(D) Section 74.735—Power limitations.

(E) Section 74.751—Modification of transmission systems.

(F) Section 74.763—Time of operation.

(G) Section 74.769—Familiarity with FCC rules.

(H) Section 74.780—Broadcast regulations applicable to translators and low power stations.

(I) Section 74.781—Station records.

(J) Section 74.784—Rebroadcasts.

(b) *Definitions of* ''*major*'' *and* ''*minor*'' *changes to low power television and television translator stations.* (1) Applications for major changes in low power television and television translator stations include:

* * * * *

§ 74.788 [Removed and Reserved]

■ 22. Remove and reserve § 74.788.

■ 23. Revise § 74.789 to read as follows:

§ 74.789 Broadcast regulations applicable to low power television and television translator stations.

The following sections are applicable to low power television and television translator stations:

(a) Section 74.600—Eligibility for license.

(b) Section 74.703—Interference.

(c) Section 74.709—Land mobile station protection.

(d) Section 74.732—Eligibility and licensing requirements.

(e) Section 74.734—Attended and unattended operation.

(f) Section 74.735—Power limitations.

(g) Section 74.751—Modification of transmission systems.

(h) Section 74.763—Time of operation.

(i) Section 74.769—Familiarity with FCC rules.

(j) Section 74.780—Broadcast regulations applicable to translators and low power stations.

(k) Section 74.781—Station records.

(l) Section 74.784—Rebroadcasts.

■ 24. Section 74.790 is amended by revising the section heading and paragraphs (a), (b) introductory text, (b)(1) introductory text, (b)(1)(ii), (b)(2), (c) through (f), (g) introductory text, (g)(1), (3), and (4), and (h) through (k) and adding paragraphs (l) and (m) to read as follows:

§ 74.790 Permissible service of TV translator and LPTV stations.

(a) TV translator stations provide a means whereby the signals of broadcast stations may be retransmitted to areas in which direct reception of such stations is unsatisfactory due to distance or intervening terrain barriers.

(b) Except as provided in paragraph (f) of this section, a TV translator station may be used only to receive the signals of a TV broadcast station, another TV translator station, a TV translator relay station, a television intercity relay station, a television STL station, or other suitable sources such as a CARS or common carrier microwave station, for the simultaneous retransmission of the programs and signals of a TV broadcast station. Such retransmissions may be accomplished by any of the following means:

(1) Reception of TV broadcast station programs and signals directly through space and conversion to a different channel by one of the following transmission modes:

* * * * *

(ii) Digital signal regeneration (*i.e.,* signal demodulation, decoding, error processing, encoding, remodulation, and frequency upconversion) and suitable amplification; or,

(2) Demodulation, remodulation, and amplification of TV broadcast station programs and signals received through a microwave transport.

(c) The transmissions of each TV translator station shall be intended for direct reception by the general public, and any other use shall be incidental thereto. A TV translator station shall not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution, or further relaying.

(d) Except as provided in paragraphs (e) and (f) of this section, the technical characteristics of the retransmitted signals shall not be deliberately altered so as to hinder reception on consumer TV broadcast receiving equipment.

(e) A TV translator station shall not retransmit the programs and signals of any TV broadcast station(s) without the prior written consent of such station(s). A TV translator may multiplex on its output channel the video program services of two or more TV broadcast stations, pursuant to arrangements with all affected stations, and for this limited purpose, is permitted to alter a TV broadcast signal.

(f) A TV translator station may transmit locally originated visual and/or aural messages limited to emergency warnings of imminent danger, to local public service announcements (PSAs) and to seeking or acknowledging financial support deemed necessary to the continued operation of the station. Acknowledgments of financial support may include identification of the contributors, the size and nature of the contribution and the advertising messages of the contributors. The originations concerning financial support and PSAs are limited to 30 seconds each, no more than once per hour. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property. Such originations may be accomplished by any technical means agreed upon between the TV translator and TV station whose signal is being retransmitted, but must be capable of being received on consumer TV broadcast reception equipment.

(g) An LPTV station may operate under the following modes of service:

(1) For the retransmission of programming of a TV broadcast station, subject to the prior written consent of the station whose signal is being retransmitted.

* * * * *

(3) Whenever operating, an LPTV station must transmit at least one over-the-air video program signal at no direct charge to viewers at least comparable in resolution to that of its associated analog (NTSC) LPTV station or, in the case of an on-channel digital conversion, that of its former analog LPTV station.

(4) An LPTV station may dynamically alter the bit stream of its signal to transmit one or more video program services in any established DTV video format.

(h) An LPTV station is not subject to minimum required hours of operation and may operate in either of the two modes described in paragraph (g) of this section for any number of hours.

(i) Upon transmitting a signal that meets the requirements of paragraph (g)(3) of this section, an LPTV station may offer services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis in accordance with the provisions of § 73.624(c) and (g) of this chapter.

(j) An LPTV station may not be operated solely for the purpose of

relaying signals to one or more fixed receiving points for retransmission, distribution or relaying.

(k) An LPTV station may receive input signals for transmission or retransmission by any technical means, including those specified in paragraph (b) of this section.

(l) As necessary, a TV translator shall modify, to avoid TV reception tuning conflicts with other stations, the Program System and Information Protocol (PSIP) information in the TV broadcast signal being retransmitted.

(m) Low power television and TV translator stations may no longer operate any facility in analog (NTSC) mode.

■ 25. Revise § 74.791 to read as follows:

§ 74.791 Call signs.

(a) *Low power stations.* Call signs for low power stations will be made up of a prefix consisting of the initial letter K or W followed by the channel number assigned to the station and two additional letters and a suffix consisting of the letters –D.

(b) *Television translator stations.* Call signs for digital television translator stations will be made up of a prefix consisting of the initial letter K or W followed by the channel number assigned to the station and two additional letters and a suffix consisting of the letter –D.

(c) *Low power television stations and Class A television stations.* Low power television and Class A television stations may be assigned a call sign with a four-letter prefix pursuant to § 73.3550 of this chapter. Low power stations with four-letter prefixes will be assigned the suffix –LD and digital Class A stations with four-letter prefixes will be assigned the suffix –CD.

■ 26. Section 74.792 is amended by revising the section heading and paragraphs (a) introductory text and (a)(3) to read as follows:

§ 74.792 Low power TV and TV translator station protected contour.

(a) A low power TV or TV translator will be protected from interference from other low power TV, TV translator, or Class A TV stations within the following predicted contours:

* * * * *

(3) 51 dBu for stations on Channels 14 through 36.

* * * * *

■ 27. Section 74.793 is amended by:

■ a. Revising the section heading and paragraphs (a), (b), and (c);

■ b. Removing and reserving paragraph (f); and

■ c. Revising paragraph (h).

The revisions read as follows:

§ 74.793 Low power TV and TV translator station protection of broadcast stations.

(a) An application to construct a new low power TV or TV translator station or change the facilities of an existing station will not be accepted if it fails to meet the interference protection requirements in this section.

(b) Except as provided in this section, interference prediction analysis is based on the interference thresholds (D/U signal strength ratios) and other criteria and methods specified in § 73.623(c)(2) through (4) of this chapter. Predictions of interference to co-channel TV broadcast, Class A TV, LPTV, and TV translator stations will be based on the interference thresholds specified therein for ''DTV-into-DTV.''

(c) The following D/U signal strength ratio (dB) shall apply to the protection of stations on the first adjacent channel. The D/U ratios correspond to the LPTV or TV translator station's specified out-of-channel emission mask.

TABLE 1 TO PARAGRAPH (c)

Simple mask	Stringent mask	Full service mask
−7	−12	Lower (−28)/Upper (−26).

* * * * *

(h) Protection to the authorized facilities of low power TV and TV translator stations shall be based on not causing predicted interference to the population within the service area defined and described in § 74.792, except that a digital low power TV or TV translator station must not cause a loss of service to 2.0 percent or more of the population predicted to receive service from the authorized low power TV or TV translator station.

■ 28. Section 74.794 is amended by revising paragraph (a)(1) to read as follows:

§ 74.794 Digital emissions.

(a)(1) An applicant for a LPTV or TV translator station construction permit shall specify that the station will be constructed to confine out-of-channel emissions within one of the following emission masks: Simple, stringent, or full service.

* * * * *

■ 29. Section 74.795 is amended by revising the section heading, paragraph (a), and paragraph (b) introductory text to read as follows:

§ 74.795 Low power TV and TV translator transmission system facilities.

(a) A low power TV or TV translator station shall operate with a transmitter that is either certificated for licensing based on the following provisions or has been modified for digital operation pursuant to § 74.796.

(b) The following requirements must be met before low power TV and TV translator transmitter will be certificated by the FCC:

* * * * *

■ 30. Section 74.796 is amended by revising the section heading and paragraph (a) to read as follows:

§ 74.796 Modification of transmission systems.

(a) The provisions of § 74.751 shall apply to the modification of low power TV and TV translator transmission systems.

* * * * *

■ 31. Section 74.797 is amended by revising the first and second sentences to read as follows:

§ 74.797 Biennial Ownership Reports.

The Ownership Report for Commercial Broadcast Stations (FCC Form 2100, Schedule 323) must be electronically filed by December 1 in all odd-numbered years by each licensee of a low power television station or other Respondent (as defined in § 73.3615(a) of this chapter). A licensee or other Respondent with a current and unamended biennial ownership report (*i.e.,* a report that was filed pursuant to this section) on file with the Commission that is still accurate and which was filed using the version of the report that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report. * * *

§ 74.798 [Removed and Reserved]

■ 32. Remove and reserve § 74.798.

[FR Doc. 2022–20294 Filed 9–22–22; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket Nos. 03–185, 22–261; FCC 22–58; FR ID 104610]

Establishing Rules for Digital Low Power Television and Television Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) seeks comment on adjustments to certain to reflect the current operating environment, including the termination of analog operations in the low power television (LPTV)/translator service as of July 13, 2021. This notice of proposed rulemaking (NPRM) seeks comment on certain amendments, including proposing to adopt rules previously applicable to analog operations for digital operations, updating geographic coordinates to the current North American Datum (NAD) standard, modifying station identification requirements, requiring LPTV stations to transmit with a virtual channel that avoids conflicts with other stations, updating the process for filing applications with the Commission, and making certain technical modifications.

DATES:

Comment date: October 24, 2022.

Reply comment date: November 7, 2022.

ADDRESSES: You may submit comments, identified by MB Docket Nos. 03–185, 22–261, FCC 22–58, by any of the following methods:

- *Federal Communications Commission's website: https://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis: This document proposes new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, invites the general public and the Office of Management and Budget (OMB) to comment on these information collection requirements. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

Rules Applicable to LPTV/Translator Digital Operations

When the Commission initially adopted rules for digital LPTV/translators in 2004, it did not apply all of the part 74 rules to digital LPTV/translators but instead adopted eleven rules in 47 CFR 74.786 through 74.796 specifically for digital LPTV/Translator stations and identified in § 74.789 which of the part 74 rules applicable to analog LPTV/translator operations would also apply to digital LPTV/translator operations. Now that the LPTV/translator digital transition is completed, in order to maintain the status quo, we believe it is necessary and appropriate to apply the additional part 74 rules not specifically identified in § 74.789 to digital LPTV/translator operations, modified, as necessary for digital operations, and propose to eliminate the analog versions of those rules. We do not believe the transition to digital operation provides any basis to relieve LPTV/translator stations of these obligations and that their continued applicability is in the public interest. Specifically, we tentatively conclude that revised § 74.702(b), which describes LPTV/translator stations' secondary status with respect to a primary station's proposal to change the Table of TV Allotments, should apply to digital LPTV/translator stations, consistent with existing practice. In addition, §§ 74.702(a) and 74.786 reflect the same information pertaining to channel assignments. We tentatively conclude to retain the requirements in § 74.702(a) and delete § 74.786. Similarly, we tentatively conclude that § 74.750, regarding the certification of equipment, should continue to apply to digital LPTV/translator stations, with certain proposed changes designed to reflect the completion of the LPTV/translator analog to digital transition. We also tentatively conclude that, in order to ensure the orderly organization of our rules, we should move certain aspects of technical requirements contained in § 74.750(c) (paragraphs (c)(5) and (8)) to digital rule § 74.795(b)(6) and (7). We seek comment on these tentative conclusions and proposed rules. We further tentatively conclude that we should adopt and apply to digital LPTV/translator stations the following rules, each of which

would track and replace corresponding rules that have previously applied to analog LPTV/translator stations, including: a new § 74.737 regarding antenna location, and a new § 74.762 regarding frequency measurements.

In conjunction with the changes proposed above, we also tentatively conclude that we should delete §§ 74.789 and 74.787(a)(5)(viii). We tentatively conclude that there is no need to have rules specifying which part 74 rules apply to digital LPTV/translators, as, with the elimination and proposed elimination of the analog rules, all rules in part 74 will apply to digital. We seek comment on this tentative conclusion.

LPTV/Translator Protection of Land Mobile Radio Service

As discussed above, § 74.709(a) and (b) of the Commission's rules require LPTV/translator stations to protect certain channels for use by land mobile radio systems (LMRS) in thirteen U.S. cities listed in the rule, which specifies a 130 kilometer radius from the coordinates for these cities as a threshold for determining interference. The 130 kilometer radius around each set of coordinates was calculated based on the 1927 North American Datum (''NAD 27''). As a result of improvements in technology and measuring capabilities, NAD 27 has been superseded by the 1983 North American Datum (''NAD 83''). The Commission's Office of Engineering and Technology (OET) and Office of the Managing Director have previously explained that ''[g]eodetic datum is a set of constants specifying the coordinate system used for calculating the coordinates of points on the Earth. NAD 83 was developed based on satellite and remote-sensing measurement techniques, and provides greater accuracy than the older NAD 27.'' Because it provides greater accuracy and the older NAD 27 is outdated, we propose to amend the rule to use NAD 83 for purposes of specifying these coordinates. We further tentatively conclude that updating the coordinates in the rule to NAD 83 would serve the public interest by conforming the values with the coordinate system used in the Commission's Licensing and Management System (LMS) database and with those found in § 90.303(b) of the rules, which define the service that § 74.709 protects. Section 90.303(b) defines the specific center points used to permit land mobile operations, which represent the specific locations that § 74.709(a) is designed to protect. *See* 47 CFR 90.303(a) (stating that ''coordinates are referenced to the North American Datum 1983 (NAD83)'') and (b). As such, our proposal to conform the values in § 74.709(a) to those of § 90.303(b) would help to ensure that land mobile operations are appropriately considered and protected from LPTV/translator operations. There is no equivalent to § 74.709(b) in the part 90 rules, so we therefore propose to convert these values to NAD 83 by conforming them to the as-filed coordinates for the associated television station if the associated station still exists at the same location, or if it does not, converting them directly to NAD 83.

While we believe the coordinate updates proposed are in the public interest for the reasons discussed above, we do not anticipate that the proposed changes will alter the actual interference protection between LPTV/translator stations and LMRS. The coordinates in the rule are used only to determine whether an LPTV/translator application is outside of the relevant LMRS protected zone for the potentially affected channel and community. Section 74.703(e) separately requires the resolution of actual interference which may occur to land mobile operations. We seek comment on these tentative conclusions and proposed changes.

LPTV Digital Data Services Act

We propose to delete the rule requiring LPTV stations that avail themselves of the provisions set forth in the LPTV Digital Data Services Act (DDSA) digital data service pilot project to comply with rules implementing the DDSA. The DDSA mandated that the Commission issue regulations establishing a pilot project pursuant to which twelve specified LPTV stations could provide digital data services to demonstrate the feasibility of using LPTV stations to provide high-speed wireless digital data service, including internet access, to unserved areas. When the Commission implemented the DDSA in 2002, the Commission had not yet authorized Class A or LPTV/translator stations to operate digital facilities. The DDSA and § 74.785 of the rules therefore required the designated stations to comply with Commission rules that implemented the DDSA if they sought to participate in the digital pilot program. As previously noted, in 2004, the Commission authorized all LPTV/translator stations to operate in digital. Currently, all LPTV stations must operate in digital and may offer ancillary and supplementary services, including the services contained in the pilot project of the DDSA. *See* 47 CFR 74.790(i); 73.624(c) and (e). The Commission's ancillary and supplementary rules provide that broadcasters may offer services that ''include, but are not limited to computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations under paragraph (b) of this section.'' *See* 47 CFR 73.624(c). *See also* 47 CFR 74.790(i). One difference between the Commission's ancillary and supplementary rules and the DDSA is that the rules require that ancillary and supplementary services may not derogate the station's required signal to viewers, while the DDSA does not. We note that none of the stations identified in the statute are currently providing service pursuant to an experimental authorization issued under the DDSA, and that some of the stations have been cancelled. For these reasons, we believe that this rule currently serves no useful purpose. Therefore, we tentatively conclude that a rule requiring stations to comply with the Commission's order implementing the DDSA should be deleted, and we seek comment on those tentative conclusions.

Station Identification

Section 74.783(a) requires analog LPTV/translator stations not originating local programming to provide station identification. When the Commission adopted its rules for digital LPTV/translator operations in 2004, it declined to adopt a separate rule for digital stations, choosing instead to allow such LPTV/translator stations the flexibility to identify themselves in different manners, including following the analog station identification provisions in § 74.783(a). Now that the LPTV/translator digital transition is complete and analog operations have terminated, we tentatively conclude that we should require digital LPTV/translator stations to comply with the station identification provisions set forth in § 74.783 applicable to analog operations, which we now propose to update to reflect digital operations. We do not believe the transition to digital operation provides any basis to relieve LPTV/translator stations of the station identification obligation, and we believe the continued application of the established rule for station identification is in the public interest. We seek comment on these tentative conclusions and the proposed rule.

In addition, proposed § 74.783(a)(1) provides alternative methods for stations to identify their broadcasts over the air. In § 74.783(a)(1) and (c), we propose to include the option for LPTV/

translator stations to use the Program and System Information Protocol (PSIP) to transmit the station's call sign as the ''short channel name'' on at least one stream of programming that the LPTV/translator station transmits. We seek comment on this proposed change.

We note that in order to identify a station using the PSIP short channel name, a station must request and be assigned a transport stream ID (TSID). If a station has requested and been assigned a TSID, we propose to require the LPTV/translator station to broadcast with the station's assigned TSID during its hours of operation. The TSID requirement would be in addition to, and not in place of, one of the other identification requirements. We propose the same requirement with respect to a station's bit stream ID (BSID), which has the same function as the TSID, but in the ATSC 3.0 context. We seek comment on these proposals.

We also seek comment on codifying the Media Bureau's (Bureau) practice of requiring LPTV stations to transmit with a virtual channel that avoids conflicts with any full power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. LPTV licensees are not required to comply with the virtual channel assignment methodology found in the Advanced Television Systems Committee's (ATSC) standard ATSC A/65C Annex B, as full power and Class A stations are, and we are not proposing to require them to do so. However, absent this rule change, LPTV stations could potentially create contour overlap with full power and Class A stations, leading to virtual channel conflicts.

Furthermore, we tentatively conclude that we should adopt § 74.791(d) to reflect the staff's current call sign assignment protocol for LPTV/translator stations. Section 74.783(d) provides that an LPTV/translator station call sign will be made up of the letters K or W, the station's channel number, and ''two additional letters.'' For certain channel numbers, however, all two letter combinations have been exhausted for several years, and consistent with the Commission's policy that all stations have a unique call sign, stations have been assigned a three letter call sign beginning with ''AAA'' continuing sequentially through the alphabet for the third letter. This three letter protocol is built into the Commission's LMS system. Considering the necessity of modifying the two letter protocol due to the exhaustion of such combinations, and the fact that any change would affect the staff's ability to continue timely processing applications, we tentatively conclude that we should amend § 74.791 to add paragraph (d) to reflect the staff's current call sign assignment protocol. We seek comment on these tentative conclusions.

Technical Modifications

Section 74.708(b) requires LPTV/translator stations to protect previously filed Class A applications, and § 74.710(a) requires LPTV/translator stations to protect previously filed LPTV/translator applications. These paragraphs reference the Bureau's practice that if two applications are filed on different days and otherwise have equal processing priority, the filing earlier in time will receive priority. We tentatively conclude that these requirements should be maintained in the rules but moved into the Commission's digital rules in § 74.787(c). We seek comment on this tentative conclusion.

Sections 74.735(c) and 74.750(f) of the rules reference vertically polarized transmitting antennas. We note that despite the reference, the Commission's LMS filing system does not and has not allowed stations to specify a vertical antenna. Further, television viewers' home receive antennas are generally horizontally, not vertically, polarized. Given these limitations, we propose to modify the language in § 74.735(c) and in revised § 74.750(f) to remove the reference to vertical-only antennas. We also propose to clarify, consistent with the similar rule applicable to full-power stations, that the horizontal power is to be higher than or equal to the vertical power in all directions, and require documentation that the antenna meets this requirement. We seek comment on these proposals.

Next, § 74.735(c)(4) currently requires that horizontal plane patterns be plotted ''to the largest scale possible on unglazed letter-size polar coordinate paper.'' This requirement is outdated and not consistent with current licensee and Commission staff practices. We propose to instead require licensees to submit patterns in the form of a .pdf attachment to an application filed in LMS, and propose to clarify that similar plots are required for elevation or matrix patterns submitted in the LMS form. This approach would provide flexibility to applicants and conform to modern practices. We seek comment on this proposal.

Section 74.751(b) permits a licensee to relocate facilities less than 500 feet (152.4 meters) without requesting prior authorization. The language of the rule, however, is in conflict with the Commission staff's standard processing practice, which is to require a licensee to file a minor modification application whenever a station seeks to relocate its antenna. OET Bulletin No. 69 (OET Bulletin) provides guidance on the use of Longley-Rice methodology for evaluating TV service coverage and interference in accordance with the Commission's rules. When the LPTV/translator stations were authorized for digital transmission in 2004, the rules permitted the use of the OET Bulletin, as opposed to contour analysis. Because the most precise antenna location provides the most accurate results when using the OET Bulletin, the staff has consistently required a minor modification application for all antenna relocations, and the industry has routinely submitted such minor modification applications. We propose to revise the language of the rule to reflect current staff practice and modify § 74.751(b)(4) to require LPTV/translator licensees and permittees to file an application in LMS on FCC Form 2100, Schedule C, requesting authorization for all station relocations. We seek comment on this proposal.

We also propose to delete two paragraphs of § 74.751 as irrelevant and unnecessary. Section 74.751(b)(6) permits relocation of a station's transmitter without authorization in only certain instances. Because the antenna location, rather than the transmitter location, is the relevant consideration in determining interference, service, and loss, as required by the Commission's rules and policies, we propose to delete § 74.751(b)(6) entirely regarding the transmitter's location, as it is not relevant in this analysis. Section 74.751(c) requires LPTV/translator licensees to notify the Commission in writing of any other equipment changes they make that are not specifically referenced in paragraphs (a) and (b) of this section. We do not believe this information is relevant to the Commission's application decision-making processes, and we note that staff does not routinely receive such notifications. Therefore we propose to delete the paragraph. We seek comment on these proposals.

Section 74.790(g)(3) provides that ''LPTV station[s] must transmit an over-the-air video program signal at no direct charge to viewers at least comparable in resolution to that of its associated analog (NTSC) LPTV station or, in the case of an on-channel digital conversion, that of its former analog LPTV station.'' We propose to update the quality standard set forth in the rule to reflect that 480i video resolution is ''comparable in resolution to analog television programming,'' consistent

with the update the Commission made to its full power station rules in § 73.624(b). We seek comment on whether this proposed quality standard is an appropriate standard for LPTV stations, and whether there is any reason to have different standards for LPTV and full power stations. Furthermore, we tentatively conclude that the D/U ratios for ATSC 3.0 into TV and vice versa for predicting interference to stations are assumed to be similar, and need not be differentiated in the rules beyond TV service. We seek comment on this tentative conclusion.

Finally, certain rules specify the filing of a letter or similar submissions for relief with the Commission. We propose to update such rules to instead require submission in LMS, the Commission's broadcast licensing database. Doing so is consistent with current licensee and Commission staff practices for both LPTV/translators and full power licensees and permittees. Specifically, we propose to amend our rules to require LPTV/translator licensees and permittees to file written reports, submissions, letters, notifications, or other required filings in LMS. We believe that this proposed amendment is in the public interest because it will streamline application submission, processing, and record keeping, and provide a centralized location for public inspection of all licensing-related matters. We seek comment on these proposals.

Cost-Benefit and Diversity, Equity and Inclusion Analysis

Finally, we seek comment on the benefits and costs associated with adopting the proposals set forth in this NPRM. In addition to any benefits to the public at large, are there also benefits to industry through adoption of any of our proposals? We also seek comment on any potential costs that would be imposed on licensees, regulatees, and the public if we adopt the proposals contained in this NPRM. Comments should be accompanied by specific data and analysis supporting claimed costs and benefits.

As part of our continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, we invite comment on how the proposals set forth in this NPRM can advance equity in the provision of broadcast services for all people of the United States, without discrimination on the basis of race, color, religion, national origin, sex, or disability. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), pursuant to 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Act Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this sixth notice of proposed rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the **DATES** section of this NPRM. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, this NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

This NPRM seeks comment on a number of proposals as part of the Commission's effort to update its rules following the termination of analog operations in the low power television (LPTV) and TV translator services. This NPRM proposes to adopt certain rules previously applicable to analog operations for digital operations.

This NPRM also proposes to delete the rule requiring LPTV stations that avail themselves of the provisions set forth in the LPTV Digital Data Services Act (DDSA) digital data service pilot project to comply with the Commission's rules implementing the DDSA.

Regarding LPTV/translator call signs, this NPRM proposes to amend the Commission's rules to account for the fact that with respect to some channel numbers, all two letter call sign combinations have been exhausted, and consistent with the Commission's policy that all stations have a unique call sign, this NPRM proposes to codify the current practice of assigning a three letter call sign beginning with ''AAA'' continuing sequentially through the alphabet for the third letter in such cases.

This NPRM seeks comment on updating the means by which stations may identify their broadcasts over the air. The Commission proposes to offer the option to place the call sign in the PSIP short channel name of at least one stream. Additionally, this NPRM seeks to mandate the broadcast of the station's assigned TSID (or BSID, which is the ATSC 3.0 functional equivalent), assuming one is assigned.

Consistent with current staff practice, this NPRM seeks comment on its proposal to require a minor modification application on FCC Form 2100, Schedule C, for all station relocations, including those under 500 feet. This NPRM also seeks comment on codifying the staff's practice of requiring LPTV stations to transmit with a virtual channel that avoids conflicts with any full power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. This NPRM also seeks comment on updating various filing requirements that currently specify submission by letter or other means to the FCC to instead require submission in the Commission's Licensing and Management System (LMS).

This NPRM also seeks comment on removing references in the rules to the use of vertical-only antennas, and to require that the horizontal power is higher than or equal to the vertical power in all directions. This NPRM also seeks to clarify what documentation is required when applications are submitted with various kinds of directional patterns.

This NPRM seeks comment on updating the coordinates found throughout § 74.709 from NAD 27 to NAD 83 and otherwise conforming the values in § 74.709(a) with those found in § 90.303. These coordinates are used only to determine where the Commission will or will not grant applications. Section 74.703(e) still requires the resolution of actual interference, so the proposed adjustments to § 74.709(a) will not change the required amount of interference protection between LPTV/translator stations and land mobile operations.

Finally, this NPRM proposes to update the quality standard set forth in § 74.790(g)(3) to reflect that 480i video resolution is ''comparable in resolution to analog television programming,'' consistent with the update the Commission made to its full power station rules.

Legal Basis

The proposed action is authorized under sections 1, 4, 301, 303, 307, 308, 309, 310, 316, 319, and 336 of the

Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 336.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act (SBA). A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

Television Broadcasting. This industry is comprised of ''establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having $41.5 million or less in annual receipts as small. The 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than $25,000,000. Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

The Commission estimates that as of March 2022, there were 1,373 licensed commercial television stations. Of this total, 1,280 stations (or 93.2%) had revenues of $41.5 million or less in 2021, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on June 1, 2022, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 2022, there were 384 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,840 LPTV stations and 3,231 TV translator stations. The Commission however does not compile, and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

Radio Stations. This industry is comprised of ''establishments primarily engaged in broadcasting aural programs by radio to the public.'' Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having $41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than $25 million per year. Based on this data and the SBA's small business size standard, we estimate a majority of such entities are small entities.

The Commission estimates that as of September 2021, there were 4,519 licensed commercial AM radio stations, 6,682 licensed commercial FM radio stations and 4,211 licensed noncommercial (NCE) FM radio stations. The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Commission seeks comment on whether stations should be able to now make certain required notifications through filings procedures in LMS as opposed to by letter, as has been the case. In addition, the Commission tentatively concludes it will modify § 74.751(b)(4) to require LPTV/translator licensees and permittees to file a minor modification application requesting authorization for all station relocations, including those less than 500 feet (152.4 meters). In past practice, the staff has not permitted stations to move to another tower that is less than 500 feet away from its current location without filing a minor modification application—this rule change would codify the staff's current practice. Should the Commission ultimately decide to adopt these requirements, they would result in a modified paperwork obligation. If adopted, the Commission will seek approval and the corresponding burdens to account for this modified reporting requirement.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the

use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. *See* 5 U.S.C. 603(c).

This NPRM seeks comment on a number of proposals that would codify the staff's current practices or better reflect technological advancements in the industry. For example, this NPRM seeks comment on codifying the staff's practice of requiring LPTV stations that voluntarily transmit with a virtual channel to choose one that avoids conflicts with any full-power or Class A station's virtual channel in cases where a contour overlap would arise, or with virtual channels chosen by other LPTV stations. Moreover, this NPRM proposes removing references in the rules to the use of vertical-only antennas, and requires that the horizontal power is higher than or equal to the vertical power in all directions, consistent with the requirements for full-power stations. These proposals are an attempt to simplify, streamline, and modernize existing rules and procedures that will enable LPTV stations to more easily comply with licensing requirements through familiar and low cost measures.

This NPRM also seeks comment on updating the coordinates in § 74.709 from NAD 27 to NAD 83 in order to conform the values with those found in part 90 of the Commission's rules. These coordinates are used only to determine whether the Commission will or will not grant applications. Section 74.703(e) still requires the resolution of actual interference, and so the Commission would not need to balance the interference protection afforded to land mobile operation with the updated, streamlined benefits for small entities as a result of this proposal.

Further, this NPRM seeks comment on updating various filing requirements that currently specify submission by letter or other means to the FCC to instead require submission in LMS. The Commission anticipates that this option will lessen the physical burden on small entities. The Commission will have to consider the benefits and costs of allowing LPTV stations to submit certain notifications in LMS.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

None.

Report to Congress

The Commission will send a copy of this NPRM including the IRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the NPRM including the IRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this NPRM and IRFA (or summaries thereof) will also be published in the **Federal Register**.

List of Subjects in 47 CFR Part 74

Low power TV, TV translator stations.

Federal Communications Commission

Marlene Dortch,

Secretary.

Proposed Regulations

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 74 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 325, 336 and 554.

■ 2. Section 74.702 is amended by revising paragraph (b) to read as follows:

§ 74.702 Channel assignments.

* * * * *

(b) Changes in the Table of TV Allotments (§ 73.622(j) of this chapter), authorizations to construct new full power television stations or to authorizations to change facilities of existing such stations, may be made without regard to existing or proposed low power TV or TV translator stations. Where such a change results in a low power TV or TV translator station causing actual interference to reception of the full power television station, the licensee or permittee of the low power TV or TV translator station shall eliminate the interference or file an application for a change in channel assignment pursuant to § 73.3572 of this chapter.

* * * * *

■ 3. Section 74.703 is amended by revising paragraph (h) to read as follows:

§ 74.703 Interference.

* * * * *

(h) In each instance where suspension of operation is required, the licensee shall submit a full report to the FCC after operation is resumed containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference. This report shall be filed via a Resumption of Operations notice in the FCC's Licensing and Management System (LMS).

* * * * *

§ 74.708 [Removed and Reserved]

■ 4. Remove and reserve § 74.708.

■ 5. Section 74.709 is amended by revising the tables in paragraphs (a) and (b)(2) to read as follows:

§ 74.709 Land mobile station protection.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

City	Channels	Coordinates	
		Latitude	Longitude
Boston, MA	14, 16	42°21′24.4″	071°03′23.2″
Chicago, IL	14, 15	41°52′28.1″	087°38′22.2″
Cleveland, OH	14, 15	41°29′51.2″	081°49′49.5″
Dallas, TX	16	32°47′09.5″	096°47′38″
Detroit, MI	15, 16	42°19′48.1″	083°02′56.7″
Houston, TX	17	29°45′26.8″	095°21′37.8″
Los Angeles, CA	14, 16, 20	34°03′15″	118°14′31.3″
Miami, FL	14	25°46′38.4″	080°11′31.3″
New York, NY	14, 15, 16	40°45′06.4″	073°59′37.5″
Philadelphia, PA	19, 20	39°56′58.4″	075°09′19.6″
Pittsburgh, PA	14, 18	40°26′19.2″	079°59′59.2″
San Francisco, CA	16, 17	37°46′38.7″	122°24′43.9″
Washington, DC	17, 18	38°53′51.4″	077°00′31.9″

(b) * * *
(2) * * *

TABLE 2 TO PARAGRAPH (b)(2)

City	Channel	Coordinates	
		Latitude	Longitude
San Diego, CA	15	32°41′52.7″	116°56′06.3″
Waterbury, CT	20	41°31′02.3″	073°00′58.4″
Washington, DC	14	38°57′17.4″	077°00′15.9″
Washington, DC	20	38°57′49.9″	077°06′17.2″
Champaign, IL	15	40°04′10″	087°54′46″
Jacksonville, IL	14	39°45′52.1″	090°30′29.5″
Ft. Wayne, IN	15	41°05′35.2″	085°10′41.9″
South Bend, IN	16	41°36′20″	086°12′46″
Salisbury, MD	16	38°24′15.4″	075°34′43.7″
Mt. Pleasant, MI	14	43°34′24.1″	084°46′21″
Hanover, NH	15	43°42′30.2″	072°09′14.3″
Canton, OH	17	40°51′04.2″	081°16′36.4″
Cleveland, OH	19	41°21′19.2″	081°44′23.5″
Oxford, OH	14	39°30′26.2″	084°44′08.8″
Zanesville, OH	18	39°55′42″	081°59′07″
Elmira-Corning, NY	18	42°06′22″	076°52′16″
Harrisburg, PA	21	40°20′43.1″	076°52′08.3″
Johnstown, PA	19	40°19′47.3″	078°53′44.1″
Lancaster, PA	15	40°15′45″	076°27′50″
Philadelphia, PA	17	40°02′30.9″	075°14′21.9″
Pittsburgh, PA	16	40°26′46.2″	079°57′50.2″
Scranton, PA	16	41°10′58.3″	075°52′19.7″
Parkersburg, WV	15	39°20′59.8″	081°33′55.4″
Madison, WI	15	43°03′03″	089°29′13″

* * * * *

§ 74.710 [Removed and Reserved]

■ 6. Remove and reserve § 74.710.
■ 7. Section 74.734 is amended by revising the first sentence of paragraph (a)(4) to read as follows:

§ 74.734 Attended and unattended operation.

(a) * * *

(4) A notification must be filed with the FCC via a Change of Control Point Notice in LMS providing the name, address, and telephone number of a person or persons who may be called to secure suspension of operation of the transmitter promptly should such action be deemed necessary by the FCC. * * *

* * * * *

■ 8. Section 74.735 is amended by revising the first and second sentences of paragraphs (c) introductory text and (c)(2) and paragraph (c)(4) and adding paragraphs (c)(6) and (7) to read as follows:

§ 74.735 Power limitations.

* * * * *

(c) The limits in paragraph (b) of this section apply to the effective radiated power in the horizontally polarized plane. For either omnidirectional or directional antennas, where the ERP values of the vertically and horizontally polarized components are not of equal strength, the ERP limits shall apply to the horizontal polarization, and the vertical ERP shall not exceed the horizontal ERP in any direction. * * *

(2) Relative field horizontal plane pattern (patterns for both horizontal and vertical polarization should be included if elliptical or circular polarization is used) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation in the horizontal polarization. * * *

* * * * *

(4) All horizontal plane patterns must be plotted in a PDF attachment to the application in a size sufficient to be easily viewed.

* * * * *

(6) If an elevation pattern is submitted in the application form, similar tabulations and PDF attachments shall be provided for the elevation pattern.

(7) If a matrix pattern is submitted in the application form, similar tabulations and PDF attachments shall be provided as necessary to accurately represent the pattern.

■ 9. Revise § 74.737 to read as follows:

§ 74.737 Antenna location.

(a) An applicant for a new low power TV or TV translator station or for a change in the facilities of an authorized station shall endeavor to select a site that will provide a line-of-sight transmission path to the entire area intended to be served and at which there is available a suitable signal from the primary station, if any, that will be retransmitted.

(b) The transmitting antenna should be placed above growing vegetation and trees lying in the direction of the area intended to be served, to minimize the possibility of signal absorption by foliage.

(c) A site within 8 kilometers of the area intended to be served is to be preferred if the conditions in paragraph (a) of this section can be met.

(d) Consideration should be given to the accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the transmitting equipment.

(e) The transmitting antenna should be located as near as is practical to the transmitter to avoid the use of long transmission lines and the associated power losses.

(f) Consideration should be given to the existence of strong radio frequency fields from other transmitters at the site of the transmitting equipment and the possibility that such fields may result in the retransmissions of signals originating on frequencies other than that of the primary station being rebroadcast.

■ 10. Revise § 74.750 to read as follows:

§ 74.750 Transmission system facilities.

(a) A low power TV or TV translator station shall operate with a transmitter

that is either certificated for licensing under the provisions of this subpart or type notified for use under part 73 of this chapter.

(b) External preamplifiers also may be used provided that they do not cause improper operation of the transmitting equipment, and use of such preamplifiers is not necessary to meet the provisions of § 74.795(b).

(c)–(d) [Reserved]

(e) The following procedures shall apply:

(1) Any manufacturer of apparatus intended for use at low power TV or TV translator stations may request certification by following the procedures set forth in part 2, subpart J, of this chapter.

(2) Low power TV and TV translator transmitting apparatus that has been certificated by the FCC will normally be authorized without additional measurements from the applicant or licensee.

(3) Applications for certification of modulators to be used with existing certificated TV translator apparatus must include the specifications electrical and mechanical interconnecting requirements for the apparatus with which it is designed to be used.

(4) Other rules concerning certification, including information regarding withdrawal of type acceptance, modification of certificated equipment, and limitations on the findings upon which certification is based, are set forth in part 2, subpart J, of this chapter.

(f) The transmitting antenna system may be designed to produce horizontal, elliptical, or circular polarization.

(g) Low power TV or TV translator stations installing new certificated transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment in existing low power TV or TV translator station transmitting apparatus must have a qualified person examine the transmitting system after installation. A report of the methods, measurements, and results must be kept in the station records. However, stations installing modulating equipment solely for the limited local origination of signals permitted by § 74.790 need not comply with the requirements of this paragraph (g).

■ 11. Section 74.751 is amended by:

■ a. Revising paragraph (b)(4); and

■ b. Removing and reserving paragraphs (b)(6) and (c).

The revision reads as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(b) * * *

(4) Any horizontal change of the location of the antenna.

* * * * *

■ 12. Revise § 74.762 to read as follows:

§ 74.762 Frequency measurements.

(a) The licensee of a low power TV station or a TV translator station must measure the frequency of its output channel as often as necessary to ensure operation consistent with the Advanced Television Systems Committee (ATSC) standard (see § 73.682 of this chapter), and at least once each calendar year at intervals not exceeding 14 months.

(b) In the event that a low power TV or TV translator station is found to be operating inconsistent with the standard in paragraph (a) of this section, the licensee promptly shall suspend operation of the transmitter and shall not resume operation until transmitter has been restored to its assigned frequency.

■ 13. Section 74.763 is amended by revising paragraph (b) to read as follows:

§ 74.763 Time of operation.

* * * * *

(b) In the event that causes beyond the control of the low power TV or TV translator station licensee make it impossible to continue operating, the licensee may discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC via a Suspension of Operations Notice filing in LMS, not later than the 10th day of discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the FCC shall be notified via a Resumption of Operations Notice filing in LMS of the date normal operations resumed. If causes beyond the control of the licensee make it impossible to comply within the allowed period, a request for Special Temporary Authority (see § 73.1635 of this chapter) shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary via LMS.

* * * * *

■ 14. Revise § 74.783 to read as follows:

§ 74.783 Station identification.

(a) Each low power TV and TV translator station not originating local programming as defined by § 74.701(h) must transmit its station identification as follows:

(1) By transmitting the call sign in the short channel name field of the Program and System and Information Protocol (PSIP) (or its ATSC 3.0 equivalent) for at least one stream on the station; or

(2) By arranging for the primary station, whose signal is being rebroadcast, to identify the translator station by transmitting an easily readable visual presentation or a clearly understandable aural presentation of the translator station's call letters and location. Two such identifications shall be made between 7 a.m. and 9 a.m. and 3 p.m. and 5 p.m. each broadcast day at approximately one hour intervals during each time period. Television stations which do not begin their broadcast day before 9 a.m. shall make these identifications in the hours closest to these time periods at the specified intervals.

(b) Licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel, the translator's call letters and location, giving the name, address, and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

(c) A low power TV station shall comply with the station identification procedures given in § 73.1201 of this chapter when locally originating programming, as defined by § 74.701(h), on its primary stream. Other streams may use the method in paragraph (a)(1) of this section. The identification procedures given in paragraphs (a) and (b) of this section are to be used at all other times.

(d) Transport Stream ID (TSID) values are identification numbers assigned to stations by the FCC and stored in the Commission's online database. Two sequential values are assigned to each station.

(1) All low power TV stations shall transmit their assigned odd-numbered TSID, if one has been assigned. All TV translator stations shall transmit their assigned odd-numbered TSID, if one has been assigned, or else the assigned TSID of the originating station if one has not been assigned to the TV translator station.

(2) In ATSC 3.0, a similar value is used called a Bit Stream ID (BSID). LPTV/translator stations operating in

ATSC 3.0 mode shall utilize their assigned even-numbered TSID as their BSID, and transmit it as otherwise required in paragraph (d)(1) of this section.

■ 15. Section 74.784 is amended by revising paragraph (b) to read as follows:

§ 74.784 Rebroadcasts.

* * * * *

(b) The licensee of a low power TV or TV translator station shall not rebroadcast the programs of any other TV broadcast station or other station authorized under the provisions of this subpart without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. The FCC shall be notified of the call letters of each station rebroadcast, and the licensee of the low power TV or TV broadcast translator station shall certify it has obtained written consent from the licensee of the station whose programs are being retransmitted. This notification shall be provided by email to *TVRebroadcast@fcc.gov,* the Video Division's email box.

* * * * *

§ 74.785 [Removed and Reserved]

■ 16. Remove and reserve § 74.785.

§ 74.786 [Removed and Reserved]

■ 17. Remove and reserve § 74.786.

■ 18. Section 74.787 is amended by removing paragraph (a)(5)(viii) and adding paragraph (c) to read as follows:

§ 74.787 Licensing.

* * * * *

(c) *Licensing.* An application to construct a new low power TV or TV translator station or change the facilities of an existing station will not be accepted if it fails to protect an authorized Class A, low power TV, or TV translator station or an application for such a station filed prior to the date the low power TV or TV translator application is filed.

§ 74.789 [Removed and Reserved]

■ 19. Remove and reserve § 74.789.

■ 20. Section 74.790 is amended by revising paragraph (g)(3) and adding paragraph (n) to read as follows:

§ 74.790 Permissible service of TV translator and LPTV stations.

* * * * *

(g) * * *

(3) Whenever operating, an LPTV station must transmit at least one over-the-air video program signal at no direct charge to viewers at a resolution of at least 480i (vertical resolution of 480 lines, interlaced).

* * * * *

(n) An LPTV station shall transmit at least the minimum Program System and Information Protocol (PSIP) information necessary for receivers to display the station's programming. The station is not required to utilize any specific virtual channel number but must avoid creating a contour overlap with any full power TV or Class A TV station's virtual channel or creating a contour overlap with another LPTV station using the same virtual channel.

■ 21. Section 74.791 is amended by adding paragraph (d) to read as follows:

§ 74.791 Call signs.

* * * * *

(d) *Call sign protocol.* The use of the initial letter generally will follow the pattern used in the broadcast service, *i.e.,* stations west of the Mississippi River will be assigned an initial letter K and those east, the letter W. The two letter combinations following the channel number will be assigned in order, and requests for the assignment of the particular combinations of letters will not be considered. The channel number designator for Channels 2 through 9 will be incorporated in the call sign as a 2-digit number, *i.e.,* 02, 03, etc., so as to avoid similarities with call signs assigned to amateur radio stations. In the event that the two letter combination following the channel numbers reaches ZZ, the next subsequent call sign shall have three letters, beginning with AAA.

■ 22. Section 74.795 is amended by:

■ a. Removing ''and'' at the end of paragraph (b)(4);

■ b. Removing the period at the end of paragraph (b)(5) and adding ''; and'' in its place; and

■ c. Adding paragraphs (b)(6) and (7).

The additions read as follows:

§ 74.795 Low power TV and TV translator transmission system facilities.

* * * * *

(b) * * *

(6) The apparatus must be equipped with automatic controls that will place it in a non-radiating condition when no signal is being received on the input channel, either due to absence of a transmitted signal or failure of the receiving portion of the facilities used for rebroadcasting the signal of another station. The automatic control may include a time delay feature to prevent interruptions caused by fading or other momentary failures of the incoming signal; and

(7) Wiring, shielding, and construction shall be in accordance with accepted principles of good engineering practice.

* * * * *

[FR Doc. 2022–20293 Filed 9–22–22; 8:45 am]

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Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2022–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2022–08; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2022–08. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

RULES LISTED IN FAC 2022–08

Item	Subject	FAR case	Analyst
I	Policy on Joint Ventures	2017–019	Jones.
II	Construction Contract Administration	2018–020	Bowman.
III	Update of Historically Underutilized Business Zone Program.	2019–007	Jones.
IV	Certification of Women-Owned Small Businesses	2020–013	Jones.
V	Technical Amendments.		

ADDRESSES: The FAC, including the SECG, is available at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2022–08 amends the FAR as follows:

Item I—Policy on Joint Ventures (FAR Case 2017–019)

This final rule amends the Federal Acquisition Regulation (FAR) to align with the Small Business Administration (SBA) regulations regarding mentor-protégé joint ventures and to provide clarification regarding joint ventures under the 8(a) Program. The changes will allow mentor-protégé joint ventures to qualify as small businesses, or to qualify under a socioeconomic program for the purposes of participation in procurements under FAR part 19. In addition, this rule provides consistent guidance to contracting officers on how to handle joint ventures under the 8(a) Program and the small business socioeconomic programs.

Item II—Construction Contract Administration (FAR Case 2018–020)

This final rule amends the FAR to implement section 855 of the of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), codified at 15 U.S.C. 644(w) in the Small Business Act. Section 855 requires Federal agencies to provide a notice, along with solicitations for construction contracts anticipated to be awarded to small businesses, to prospective offerors that includes information about the agency's policies or practices in complying with FAR requirements related to the timely definitization of requests for equitable adjustment on construction contracts. The notice must include data regarding the time it took the agency to definitize requests for equitable adjustment on construction contracts for the three-year period preceding the issuance of the notice.

The final FAR rule requires contracting officers to transmit in the solicitation notice on the Governmentwide point of entry information in construction solicitations anticipated to be awarded to a small business pursuant to part 19, that includes a description of agency-specific policies or procedures regarding definitization of equitable adjustments for change orders under construction contracts. Additionally, agencies are required to include past performance data in the solicitation notice, for the three fiscal years preceding the issuance of the solicitation notice, regarding the time required to definitize equitable adjustments for change orders under construction contracts using the table format provided in the FAR text, or provide the address of an agency-specific, publicly accessible website containing this information. The final rule also describes an adequate change order definitization proposal as containing sufficient information to enable the contracting officer to conduct meaningful analyses and audits of the information contained in the proposal.

Item III—Update of Historically Underutilized Business Zone Program (FAR Case 2019–007)

This final rule amends the FAR to implement changes to the SBA regulations for the Historically Underutilized Business Zone (HUBZone) Program. This rule specifies that SBA now certifies HUBZone small business concerns and HUBZone entities are no longer required to represent their HUBZone status with each offer. In addition, contracting officers may now award HUBZone set-aside and sole-source contracts at or below the simplified acquisition threshold. This rule also makes minor changes to the HUBZone protest procedures.

Item IV—Certification of Women-Owned Small Businesses (FAR Case 2020–013)

This final rule amends the FAR to align with SBA's regulations regarding certification of economically disadvantaged women-owned small business (EDWOSB) concerns and

women-owned small business (WOSB) concerns. This rule requires EDWOSBs and WOSBs participating in the Women-Owned Small Business Program (the Program) to apply for certification through SBA or a SBA-approved third-party certifier to be eligible for WOSB or EDWOSB set-aside or sole-source contracts. EDWOSB and WOSB concerns that are not certified will not be eligible for set-aside and sole-source contracts under the Program. WOSBs that do not participate in the Program may continue to represent their status, be awarded contracts outside the Program, and these contracts will continue to count toward an agency's goal for awards to WOSBs.

Item V—Technical Amendments

Administrative changes are made at FAR 4.1202, 19.102, and 19.309. The date change is to provide additional time to implement the policy addressing the assignment of North American Industry Classification System codes to orders placed under multiple award contracts, as covered by changes made by FAR case 2014–002, Set-Asides Under Multiple Award Contracts.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2022–08 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2022–08 is effective September 23, 2022 except for Items I through IV, which are effective October 28, 2022.

John M. Tenaglia,

Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Karla Smith Jackson,

Assistant Administrator for Procurement, Senior Procurement Executive, National Aeronautics and Space Administration.

[FR Doc. 2022–20339 Filed 9–22–22; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 9, 15, 19, and 52

[FAC 2022–08; FAR Case 2017–019; Item I; Docket No. FAR–2017–019, Sequence No. 1]

RIN 9000–AN59

Federal Acquisition Regulation: Policy on Joint Ventures

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement statutory and regulatory changes regarding joint ventures made by the Small Business Administration (SBA) in its final rule published in the **Federal Register** on July 25, 2016, and to clarify that 8(a) joint ventures are not certified into the 8(a) program. Additionally, the rule implements SBA's statutory and regulatory changes that eliminated SBA approval of joint venture agreements for competitive 8(a) awards.

DATES: Effective October 28, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Malissa Jones, Procurement Analyst, at 571–882–4687 or by email at *Malissa.Jones@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–08, FAR Case 2017–019.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 85 FR 34561 on June 5, 2020, to revise the FAR to implement statutory and regulatory changes made by the SBA regarding joint ventures. These changes allow a joint venture comprised of a protégé and its mentor to qualify as a small business or under a socioeconomic program (*e.g.,* 8(a)) for which the protégé qualifies. These changes also provide updated requirements for other joint ventures to qualify as small businesses or to qualify under a socioeconomic program.

Section 1347 of the Small Business Jobs Act of 2010 (Pub. L. 111–240) and section 1641 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239; 15 U.S.C. 657r) authorized the SBA Administrator to establish mentor-protégé programs for small business concerns, service-disabled veteran owned small business (SDVOSB) concerns, women-owned small business concerns in the Women-Owned Small Business (WOSB) Program, and HUBZone small business concerns modeled after the mentor-protégé program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)). On July 25, 2016, SBA issued a final rule (81 FR 48558) that implemented the mentor-protégé programs at 13 CFR 125.9. SBA's final rule allows a joint venture comprised of a protégé and its mentor to seek any type of small business contract, including a contract under a socioeconomic program, for which the protégé qualifies.

Additionally, this rule implements SBA's final rule published on October 16, 2020, at 85 FR 66146, which implemented statutory and regulatory changes that eliminated SBA approval of joint venture agreements for competitive 8(a) awards.

For further details see Section IV of this preamble, and see Section II of the proposed rule.

Seven respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule; however, no changes were made as a result of the public comments received. A discussion of the comments received, and the changes made to the rule as a result of SBA's final rule (85 FR 66146) published October 16, 2020, are provided as follows:

A. Summary of Significant Changes From the Proposed Rule

This final rule makes changes to paragraph (a) at FAR 19.703, Eligibility requirements for participating in the program, to add HUBZone small business to paragraphs (2)(i) and (ii). The proposed language at FAR 19.805–2(d)(2) is revised to clarify that SBA does not approve joint ventures for competitive awards, and the proposed language regarding SBA approval of joint ventures at 19.805–2(d)(2) and (e) is removed. Conforming changes are made to 52.219–18. These changes are required to resolve conflicts between the changes in the proposed rule and SBA's

final rule at 85 FR 66146, published October 16, 2020. In SBA's final rule, SBA specified that it no longer approves joint venture agreements for competitive 8(a) awards. As a result, changes are made to the text in this final rule.

B. Analysis of Public Comments

1. Support for the Rule

Comment: Three respondents expressed support for the rule.

Response: The Councils acknowledge the respondents' support for the rule.

2. Outside the Scope of This Rule

Comment: One respondent recommended adding the verbiage ''need only be approved by the SBA prior to the contract award'' to the pre-award timeline.

Response: This final rule amends the FAR to implement statutory and regulatory changes regarding joint ventures made by the SBA. Editing or revising the pre-award timeline is outside the scope of this rule.

Comment: One respondent stated that there is no cost effective mechanism under the General Services Administration Federal Supply Schedule (FSS) program (referenced by the respondent as the Multiple Award Schedule) to track ''the requirement that certain small business or socioeconomic parties to a joint venture perform 40 percent of the work performed by the joint venture and that the work performed must be more than administrative functions.''

Response: The purpose of this rule is to implement SBA's final rule issued on July 25, 2016, at 81 FR 48558, which established the requirement that certain small business parties to a joint venture perform 40 percent of all work done by the joint venture and that work performed is more than merely performing administrative functions. GSA uses Industrial Operations Analysts to ensure contractors are complying with terms and conditions of Multiple Award Schedule contracts.

3. Negative Impacts of the Rule

Comment: Two respondents expressed concern regarding the potential negative impacts of the rule. One respondent believes that the new rule will undermine small businesses. Under the proposed rule, a large business affiliated under a joint venture with a small business can collectively utilize a combined past performance, making the small business a ''front'' for the large business. The respondent believes this rule should be retired and not entered into the FAR. Another respondent stated that the rule places the joint venture in an unfair advantage over other small businesses when considering past performance as an evaluation factor for source selection. The respondent further stated that the joint venture should receive a neutral rating if it has no past performance.

Response: This rule is expected to have an overall positive impact on small businesses by creating new opportunities under the mentor-protégé program. All mentors and protégés are subject to the requirements and limitations of the mentor-protégé program and, in accordance with 13 CFR 121.103(h)(1)(ii), only mentor-protégé joint ventures are eligible for set-aside opportunities, including those where a large business is a mentor. This final rule requires the small business protégé or 8(a) participant to perform at least 40 percent of the work done by the joint venture in accordance with 13 CFR 125.8. This rule recognizes that joint ventures perform work through their members, not as independent entities. Furthermore, this rule requires contracting officers to consider the past performance of each party to the joint venture if the joint venture does not demonstrate past performance.

4. Clarification Needed

a. Clarify SBA Requirements for Evaluating a Mentor-Protégé Joint Venture's Past Performance

Comment: One respondent requested that this case address solicitation language indicating that the managing member must provide relevant past performance information. The respondent believes requesting past performance from a joint venture managing partner does not allow protégés to gain experience using their mentor's past performance.

Response: This rule implements SBA's final rule, 81 FR 48558, which requires the contracting officer to consider the past performance of the protégé when a joint venture under the mentor-protégé program does not have past performance. This change is made in subpart 9.1, Responsible Prospective Contractors, and in subpart 15.3, Source Selection.

b. Clarify Definition of Small Business Concern/Size Status Determination

Comment: One respondent stated that the amended definition of small business concern does not directly specify whether the contracting officer or SBA is authorized to make the size status determination of a concern. The respondent provided the following suggested language to provide clarity, ''Contractors shall self-certify size status. Questions of a contractor's size status shall be determined by the Small Business Administration.''

Response: FAR subpart 19.3, Determination of Small Business Size and Status for Small Business Programs, specifies that SBA makes a size status determination. Therefore, it is not necessary to modify the definition of small business concern.

c. Clarify Joint Venture Applicability Under the GSA Federal Supply Schedules

Comment: One respondent requested clarification of the applicability of joint ventures to the GSA FSS Program. The respondent believes that the limited duration of a joint venture creates a conflict for its use in the FSS program. According to the respondent, under the FSS program contracts may be awarded for up to 20 years, in 5-year increments, and joint ventures are set up to bid on a specific job and may last up to six years, including one extension.

Response: This rule implements SBA's final rule at 85 FR 66146, published on October 16, 2020, which provides further clarification regarding the requirements for joint venture formation and duration. SBA's regulations do not prohibit a small business joint venture from performing the full length of their FSS contract and do not include a maximum time limitation on a joint venture.

d. Clarify Supplementary Information in Background Section

Comment: One respondent suggested that the adjective ''improper'' be replaced with ''unintended'' in the sentence that appeared in the last paragraph of the Background section under the Supplementary Information in the **Federal Register** Notice for the proposed rule: ''This rule proposes clarifications to prevent the improper elimination of 8(a) joint venture proposals in the future.''

Response: As noted in the **Federal Register** notice for the proposed rule, the clarification that 8(a) joint venture agreements need only be approved by the SBA prior to contract award is necessary because the Government Accountability Office (GAO) sustained a protest (BGI-Fiore JV, LLC, B–409520, May 29, 2014) in which an agency rejected an 8(a) joint venture's proposal on the basis that the 8(a) joint venture had not been certified by the SBA prior to submission of proposals. As stated in GAO's decision, GAO affirmed the protestor's argument that the agency improperly rejected its proposal. The use of the adjective ''improper'' in the **Federal Register** notice for the proposed

rule is derived directly from the text of the GAO decision. Further, the adjective suggested by the respondent, ''unintended'', does not have the same meaning as ''improper'' and is not an appropriate substitution in this context. Finally, the suggested revision has no effect on the text of the rule; therefore, the final rule is unchanged.

e. Clarify SBA Joint Venture Review Timeline

Comment: One respondent asked to clarify the amount of time the SBA Associate Administrator for Business Development has to review the joint venture agreement.

Response: The final rule makes changes to the proposed rule FAR text at 19.805–2 to remove the proposed paragraph (e), which referred to the SBA Associate Administrator for Business Development review of the joint venture agreement. SBA's final rule at 85 FR 66146 published on October 16, 2020, specified that SBA no longer approves joint venture agreements for competitive 8(a) awards. As a result, changes are made to the text in this final rule.

Comment: One respondent was concerned about ''certification of the joint venture as an 8(a)'' participant and how to properly address this situation given the workload of the SBA Business Opportunity Specialist. The respondent stated that the two proposals his joint venture proposed required a certification letter, which they did not have due to the joint venture not being approved. The respondent provided that his SBA office and Business Opportunity Specialist will not review any joint ventures unless a contracting officer or agency is willing to make an award, which is well after the proposal process is completed. To address this situation, the respondent recommended that the SBA conduct preliminary reviews prior to the submission of a contract effort and possibly when the joint venture is formed (approve the joint venture agreement and/or certify the joint venture is small) then conduct a full review at contract award. The respondent believes this approach will reduce the risk to the members of the joint venture of having to go through the proposal process only to be disqualified by the SBA.

Response: The Councils acknowledge the respondents concern with certification of the joint venture as an 8(a) participant and the differing interpretations of FAR clause 52.219–18, Notification of Competition Limited to Eligible 8(a) Concerns. Some have interpreted this clause to mean that 8(a) joint ventures that submitted an offer for an 8(a) contract needed to be ''certified'' by the SBA and the joint venture agreement needed to be approved by the SBA by ''the time of submission of offer.'' This interpretation of the FAR clause is incorrect. This final rule amends the FAR to clarify that 8(a) joint ventures are not certified into the 8(a) program, and that 8(a) joint venture agreements need only be approved by the SBA prior to the award of an 8(a) sole source contract to prevent the improper elimination of 8(a) joint venture proposals in the future.

f. Clarify Size Status for Mentor-Protégé Joint Ventures

Comment: One respondent asked to clarify if a joint venture between a prime contractor and protégé in a socioeconomic program is considered a small business concern within that socioeconomic program. The respondent also asked to clarify if a joint venture between a mentor and a protégé (other than small business mentor and small business protégé) is a ''small business joint venture.''

Response: The SBA regulations at 13 CFR 121.103(h) and 125.8(a) and (b) specify the requirements for joint ventures to qualify as a small business concern. The final rule amends FAR 19.3, Determination of Small Business Status for Small Business Programs, to address how a joint venture may qualify for an award as a small business concern under the socioeconomic programs. A joint venture may qualify as a small business concern if each participant in the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved agreement under a SBA mentor protégé program. A joint venture may qualify under socioeconomic programs when the joint venture qualifies as a small business joint venture and one of the parties to the joint venture qualifies under one or more of the socioeconomic programs. Therefore, an offer submitted by the joint venture made up of a mentor and protégé will be considered small. The language in the final rule is consistent with SBA's regulations.

g. Clarify 8(a) Certification Requirements for a Small Business Joint Venture Party

Comment: Two respondents requested clarification regarding section 8(a) certification requirements for small business joint ventures prior to proposal submission. Additionally, one respondent requested that the specific requirements be provided. The respondent also stated that since SBA does not certify joint ventures into the 8(a) program, once a firm outgrows its small business status for the size standard for its primary NAICS code, it should no longer be eligible for contracting benefits from its mentor-protégé relationship.

Response: In accordance with 13 CFR 124.513(e)(1), for 8(a) sole-source awards, SBA approves the joint venture agreement prior to award. SBA's final rule at 85 FR 66146 published on October 16, 2020, amended 13 CFR 124.513(e)(1) to specify that SBA will not approve joint ventures in connection with competitive 8(a) awards (but see 13 CFR 124.501(g) for SBA's determination of participant eligibility). As a result, changes are made to the text in this final rule at FAR 19.805–2(d).

h. Clarify the Method Used To Determine the Percentage of Work Performed in the Rule

Comment: One respondent asked to clarify how the Councils determined the requirement that certain small business parties to the joint venture must perform 40% of non-administrative work performed by the joint venture.

Response: This case implements SBA's final rule published on July 25, 2016 at 81 FR 48558. SBA's final rule established the requirement that certain small business parties to the joint venture perform 40% of all work done by the joint venture, and that work performed is more than merely administrative work.

C. Other Changes

Changes have been made to FAR 19.1503(f)(2) to clarify at least one party to the joint venture is an EDWOSB for an EDWOSB joint venture, or at least one party to the joint venture is a WOSB for a WOSB joint venture. Additionally, conforming changes have been made to FAR clauses 52.219–3, Notice of HUBZone Set-aside or Sole-Source Award and 52.219–4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns, and paragraph numbers for FAR clauses 52.219–27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside, 52.219–29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns, and 52.219–30, Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program, were revised due to baseline changes.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items) or for Commercial Services

This rule amends the provisions and clauses at FAR 52.212–3, 52.212–5, 52.213–4, 52.219–1, 52.219–3, 52.219–4, 52.219–8, 52.219–9, 52.219–14, 52.219–18, 52.219–27, 52.219–28, 52.219–29, 52.219–30, and 52.244–6. However, this rule does not change the application to solicitations and contracts at or below the SAT or for commercial products (including COTS items) or for commercial services. The provisions and clauses continue to apply to acquisitions for commercial products (including COTS items), to acquisitions for commercial services, and acquisitions at or below the SAT.

A. Applicability to Contracts at or Below the SAT

41 U.S.C. 1905 governs the applicability of laws to acquisitions at or below the SAT. Section 1905 generally limits the applicability of new laws when agencies are making acquisitions at or below the SAT, but provides that such acquisitions will not be exempt from a provision of law under certain circumstances, including when the Federal Acquisition Regulatory Council (FAR Council) makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law.

The FAR Council has made a determination to apply this statute to acquisitions at or below the SAT. Application of section 1641 to SAT procurements will further the Administration's efforts to advance equity in procurement, consistent with Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,* and promote ''maximum practicable opportunities'' for small businesses, consistent with the longstanding policy expressed in FAR 19.201. Although acquisitions under the SAT are set aside for small businesses by law, some awards are made to other than small businesses because small businesses are not able to meet the performance requirements. Section 1641 advances the interests of small business concerns by allowing for more joint ventures that include a small business to qualify as a small business or under a socioeconomic program. This access allows such small businesses to perform work under SAT set-asides as part of a joint venture that they cannot perform as stand-alone entities. Exclusion of a large segment of Federal contracting, such as acquisitions under the SAT, will limit the full implementation of these objectives.

B. Applicability to Contracts for the Acquisition of Commercial Products (Including Commercially Available Off-the-Shelf Items) and for Commercial Services

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products or commercial services, and is intended to limit the applicability of laws to those contracts. Section 1906 provides that if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt contracts and subcontracts for commercial products or commercial services, the provision of law will apply to them.

41 U.S.C. 1907 states that acquisitions of COTS items will be exempt from a provision of law unless certain circumstances apply, including if the Administrator for Federal Procurement Policy makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items from the provision of law.

The FAR Council has made a determination to apply this statute to acquisitions for commercial products or commercial services. The Administrator for Federal Procurement Policy has made a determination to apply this statute to acquisitions for COTS items. Application of section 1641 to acquisitions of commercial products and commercial services, including COTS items, would further the Administration's efforts to advance equity in procurement, consistent with Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,* and promote ''maximum practicable opportunities'' for small businesses, consistent with the longstanding policy expressed in FAR 19.201. Section 1641 advances the interests of small business concerns by allowing for more joint ventures that include a small business to qualify as a small business or under a socioeconomic program. This access allows such small businesses to perform work under set-aside procurements of commercial products and services, including COTS items, as part of a joint venture that they cannot perform as stand-alone entities. Exclusion of a large segment of Federal contracting, such as acquisitions of commercial products and commercial services, including COTS items, will limit the full implementation of these objectives.

IV. Expected Impact of the Rule

This final rule will allow joint ventures to qualify as small if all parties to the joint venture qualify as small under the size standard associated with the NAICS code for the solicitation, or if the joint venture is comprised of a mentor and protégé in the SBA Mentor-Protégé Program. Additionally, this rule allows a joint venture to qualify for one of the socioeconomic programs if the joint venture qualifies as a small business joint venture and one of the parties to the joint venture meets the associated requirements of the socioeconomic program. The joint venture will identify its size and socioeconomic status in accordance with FAR 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services, and 52.219–1, Small Business Program Representations.

This rule requires agencies to consider the past performance of each party to a joint venture if the joint venture is not able to demonstrate past performance for an offer for award. Currently, agencies are not required to review the past performance of each party to a joint venture; therefore, this rule is expected to help joint ventures to have qualifying past performance for award when a joint venture does not have qualifying past performance. This additional requirement is beneficial to joint ventures that are in the initial stages of their agreement and do not have past performance experience.

This rule revises the FAR to align 8(a) joint venture requirements with SBA's regulations, which is expected to decrease the number of protests. This rule clarifies that SBA does not approve joint ventures for competitive 8(a) awards. In addition, this rule revises the FAR to include SBA's requirement that small business parties to a joint venture must perform 40% of the work done by the joint venture and that the work performed must be more than merely administrative.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and

equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601–612. The FRFA is summarized as follows:

DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 1347 of the Small Business Jobs Act of 2010 (Pub. L. 111–240) and section 1641 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239; 15 U.S.C. 657r) regarding joint ventures as implemented by the Small Business Administration (SBA) in its final rule at 81 FR 48558, published on July 25, 2016. The rule also implements SBA's final rule published on October 16, 2020, at 85 FR 66146. The statutory and regulatory changes establish the mentor-protégé program, clarify that 8(a) joint ventures are not certified into the 8(a) program, and specify that SBA no longer approves joint venture agreements for competitive 8(a) awards.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

The final rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will impact small business joint ventures and small business entities in a SBA mentor-protégé program. Based on joint venture data in the System for Award Management, the estimated number of small business joint ventures is 3,347. Assuming that each joint venture includes 2 small businesses, the number of small entities impacted is 6,694. According to SBA's final rule, there are an estimated 2,000 pairs of mentors and protégés that may be impacted. Therefore, the estimated number of total small entities to which the rule applies is 8,694.

This final rule does not include any recordkeeping or other compliance requirements for small businesses.

Joint ventures will be required to represent themselves as small businesses in accordance with the updated representation provisions at FAR 52.212–3 or 52.219–1. Representation is currently required for all small entities doing business with the Government; however, representation is not a new requirement. The number of options for the entities to select from has merely increased to include joint venture options. Therefore, the potential impact is de minimis.

The final rule may have a positive economic impact on small entities. The updated SBA regulations allow for more joint ventures that include a small business to qualify as a small business or under a socioeconomic program; and therefore, more small businesses can qualify for set-aside procurements.

There are no known significant alternative approaches to the final rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of SBA.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501–3521) applies to the information collection requirements in the provision at FAR 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0136 and 9000–0007.

List of Subjects in 48 CFR Parts 2, 9, 15, 19, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 9, 15, 19, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 9, 15, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101, in paragraph (b)(2), by revising paragraph (1) of the definition of ''Small business concern'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria and size standards in 13 CFR part 121 (see 19.102).

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

■ 3. Amend section 9.104–3 by redesignating paragraph (c) as paragraph (c)(1) and adding paragraph (c)(2) to read as follows:

9.104–3 Application of standards.

* * * * *

(c)(1) * * *

(2) *Joint ventures.* For a prospective contractor that is a joint venture, the contracting officer shall consider the past performance of the joint venture. If the joint venture does not demonstrate past performance for award, the contracting officer shall consider the past performance of each party to the joint venture.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

■ 4. Amend section 15.305 by adding paragraph (a)(2)(vi) to read as follows:

15.305 Proposal evaluation.

(a) * * *

(2) * * *

(vi) For offerors that are joint ventures, the evaluation shall take into account past performance of the joint venture. If the joint venture does not demonstrate past performance for award, the contracting officer shall consider the past performance of each party to the joint venture.

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 5. Amend section 19.301–1 by revising paragraph (a) to read as follows:

19.301–1 Representation by the offeror.

(a)(1) To be eligible for award as a small business concern identified in 19.000(a)(3), an offeror is required to represent in good faith—

(i)(A) That it meets the small business size standard corresponding to the North American Industry Classification System (NAICS) code identified in the solicitation; or

(B) For a multiple-award contract where there is more than one NAICS

code assigned, that it meets the small business size standard for each distinct portion or category (*e.g.,* line item numbers, Special Item Numbers (SINs), sectors, functional areas, or the equivalent) for which it submits an offer. If the small business concern submits an offer for the entire multiple-award contract, it must meet the size standard for each distinct portion or category (*e.g.,* line item number, SIN, sector, functional area, or equivalent); and

(ii) The Small Business Administration (SBA) has not issued a written determination stating otherwise pursuant to 13 CFR 121.1009.

(2)(i) A joint venture may qualify as a small business concern if the joint venture complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b) and if—

(A) Each party to the joint venture qualifies as small under the size standard for the solicitation; or

(B) The protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under an SBA mentor-protégé program.

(ii) A joint venture may qualify for an award under the socioeconomic programs as described in subparts 19.8, 19.13, 19.14, and 19.15.

* * * * *

■ 6. Amend section 19.703 by—

■ a. Removing from paragraph (a)(2)(i) and paragraph (a)(2)(ii) introductory text, the phrase ''small business, or'' and adding the phrase ''small business, HUBZone small business, or'' in its place, respectively; and

■ b. Revising paragraph (d).

The revision reads as follows:

19.703 Eligibility requirements for participating in the program.

* * * * *

(d) Protests challenging the socioeconomic status of a HUBZone small business concern must be filed in accordance with 13 CFR 126.801.

* * * * *

■ 7. Amend section 19.804–3 in paragraph (c) introductory text by adding a sentence to the end of the paragraph to read as follows:

19.804–3 SBA acceptance.

* * * * *

(c) * * * For a joint venture, SBA will determine eligibility as part of its acceptance of a sole-source requirement and will approve the joint venture agreement prior to award in accordance with 13 CFR 124.513(e).

* * * * *

■ 8. Amend section 19.805–2 by revising paragraph (b) introductory text and adding paragraph (d) to read as follows:

19.805–2 Procedures.

* * * * *

(b) The SBA will determine the eligibility of the apparent successful offeror. Eligibility is based on section 8(a) program criteria. See paragraph (d) of this section regarding eligibility of joint ventures.

* * * * *

(d)(1) SBA does not certify joint ventures, as entities, into the 8(a) program.

(2) A contracting officer may consider a joint venture for contract award. SBA does not approve joint ventures for competitive awards (but see 13 CFR 124.501(g) for SBA's determination of participant eligibility).

■ 9. Amend section 19.1303 by revising paragraph (c) to read as follows:

19.1303 Status as a HUBZone small business concern.

* * * * *

(c) A joint venture may be considered a HUBZone small business concern if—

(1) The joint venture qualifies as small under 19.301–1(a)(2)(i);

(2) At least one party to the joint venture is a HUBZone small business concern; and

(3) The joint venture complies with 13 CFR 126.616(a) through (c).

* * * * *

■ 10. Amend section 19.1403 by revising paragraph (c) to read as follows:

19.1403 Status as a service-disabled veteran-owned small business concern.

* * * * *

(c) A joint venture may be considered a service-disabled veteran owned small business concern if—

(1) The joint venture qualifies as small under 19.301–1(a)(2)(i);

(2) At least one party to the joint venture is a service-disabled veteran-owned small business concern, and makes the representations in paragraph (b) of this section; and

(3) The joint venture complies with the requirements of 13 CFR 125.18(b).

* * * * *

■ 11. Amend section 19.1503 by revising paragraph (f) to read as follows:

19.1503 Status.

* * * * *

(f) A joint venture may be considered an EDWOSB concern or WOSB concern eligible under the WOSB Program if—

(1) The joint venture qualifies as small under 19.301–1(a)(2)(i);

(2)(i) At least one party to the joint venture is an EDWOSB for an EDWOSB joint venture, or at least one party to the joint venture is a WOSB for a WOSB joint venture; and

(ii) That party complies with the criteria in paragraph (b) of this section; and

(3) The joint venture complies with the requirements of 13 CFR 127.506(a) through (c).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Amend section 52.212–3 by—

■ a. Revising the date of the provision;

■ b. Removing from the introductory text of the provision the phrase ''(c) through (v))'' and adding the phrase ''(c) through (v)'' in its place;

■ c. In paragraph (a), revising paragraph (1) of the definition ''Small business concern'';

■ d. Revising paragraphs (c)(1) and (3);

■ e. Removing from the end of paragraph (c)(6)(i) the word ''and'' and adding the word ''or'' in its place;

■ f. Revising paragraph (c)(6)(ii);

■ g. Removing from the end of paragraph (c)(7)(i) the word ''and'' and adding the word ''or'' in its place;

■ h. Revising paragraph (c)(7)(ii);

■ i. Revising the bracketed sentence in paragraph (c)(10);

■ j. Removing from the end of paragraph (c)(10)(i) the phrase ''13 CFR Part 126; and'' and adding the phrase ''13 CFR 126.200; or'' in its place; and

■ k. Revising paragraph (c)(10)(ii).

The revisions read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Products and Commercial Services.

* * * * *

Offeror Representations and Certifications—Commercial Products and Commercial Services (OCT 2022)

* * * * *

(a) * * *

Small business concern—(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.

* * * * *

(c) * * *

(1) *Small business concern.* The offeror represents as part of its offer that—

(i) It ☐ is, ☐ is not a small business concern; or

(ii) It ☐ is, ☐ is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:* ____.]

* * * * *

(3) *Service-disabled veteran-owned small business concern.* [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.*] The offeror represents as part of its offer that—

(i) It □ is, □ is not a service-disabled veteran-owned small business concern; or

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.*] Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

* * * * *

(6) * * *

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.*] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall provide representation of its WOSB status.

(7) * * *

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:____.*] Each EDWOSB concern participating in the joint venture shall provide representation of its EDWOSB status.

Note to Paragraphs (c)(8) and (9): Complete paragraphs (c)(8) and (9) only if this solicitation is expected to exceed the simplified acquisition threshold.

* * * * *

(10) * * * [*Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.*] * * *

* * * * *

(ii) It □ is, □ is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:____.*] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

* * * * *

■ 13. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (b)(11) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ c. Removing from paragraph (b)(12) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ d. Removing from paragraph (b)(16) the date ''(OCT 2018)'' and adding the date ''(OCT 2022)'' in its place;

■ e. Removing from paragraph (b)(17)(i) the date ''(NOV 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ f. Removing from paragraph (b)(19) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ g. Removing from paragraph (b)(21) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ h. Removing from paragraph (b)(22)(i) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ i. Removing from paragraph (b)(23) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ j. Removing from paragraph (b)(24) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ k. Removing from paragraph (e)(1)(v) the date ''(OCT 2018)'' and adding the date ''(OCT 2022)'' in its place;

■ l. Revising the date of Alternate II; and

■ m. Removing from paragraph (e)(1)((ii)(E) of Alternate II the date ''(OCT 2018)'' and adding the date ''(OCT 2022)'' in its place.

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (OCT 2022)

* * * * *

Alternate II (OCT 2022). * * *

* * * * *

■ 14. Amend section 52.213–4 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a)(2)(viii) the date ''(JAN 2022)'' and adding the date ''(OCT 2022)'' in its place.

The revision reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (OCT 2022)

* * * * *

■ 15. Amend section 52.219–1 by—

■ a. Revising the date of the provision;

■ b. In paragraph (a), revising paragraph (1) in the definition of ''Small business concern'';

■ c. Revising paragraph (c)(1);

■ d. Removing from the end of paragraph (c)(4)(i) the word ''and'' and adding the word ''or'' in its place;

■ e. Revising paragraph (c)(4)(ii);

■ f. Removing from the end of paragraph (c)(5)(i) the word ''and'' and adding the word ''or'' in its place;

■ g. Revising paragraphs (c)(5)(ii) and (c)(7);

■ h. Removing from the end of paragraph (c)(8)(i) the phrase ''13 CFR Part 126; and'' and adding the phrase ''13 CFR 126.200; or'' in its place; and

■ i. Revising paragraph (c)(8)(ii).

The revisions read as follows:

52.219–1 Small Business Program Representations.

* * * * *

Small Business Program Representations (OCT 2022)

* * * * *

Small business concern— (1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (b) of this provision.

* * * * *

(c) * * *

(1) The offeror represents as part of its offer that—

(i) It □ is, □ is not a small business concern; or

(ii) It □ is, □ is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:____.*]

* * * * *

(4) * * *

(ii) It □; is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.*] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall provide representation of its WOSB status.

* * * * *

(5) * * *

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.*] Each EDWOSB concern participating in the joint venture shall provide representation of its EDWOSB status.

* * * * *

(7) [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.*] The offeror represents as part of its offer that—

(i) It □ is, □ is not a service-disabled veteran-owned small business concern; or

(ii) It □ is, □ is not a service-disabled veteran-owned joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:____.*] Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

(8) * * *

(ii) It □ is, □ is not a HUBZone joint venture that complies with the requirements

of 13 CFR 126.616(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:* ____.] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

* * * * *

■ 16. Amend section 52.219–3 by revising the date of the clause and adding paragraphs (e) and (f) to read as follows:

52.219–3 Notice of HUBZone Set-Aside or Sole-Source Award.

* * * * *

Notice of HUBZone Set-Aside or Sole-Source Award (OCT 2022)

* * * * *

(e) *Joint venture.* A joint venture may be considered a HUBZone concern if—

(1) At least one party to the joint venture is a HUBZone small business concern and complies with 13 CFR 126.616(c); and

(2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under the SBA mentor-protégé program.

(f) A HUBZone joint venture agrees that, in the performance of the contract, at least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business party or parties to the joint venture must be more than administrative functions.

* * * * *

■ 17. Amend section 52.219–4 by revising the clause title and date and adding paragraph (d) to read as follows:

52.219–4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.

* * * * *

Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2022)

* * * * *

(d) A HUBZone joint venture agrees that, in the performance of the contract, at least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business parties to the joint venture must be more than administrative functions.

* * * * *

■ 18. Amend section 52.219–8 by—
■ a. Revising the date of the clause;
■ b. In paragraph (a), revising the definition of ''Small business concern'';
■ c. Redesignating paragraphs (c) and (d) as paragraphs (d) and (e) and adding a new paragraph (c); and
■ d. Revising newly redesignated paragraph (e)(5) introductory text.

The revisions read as follows:

52.219–8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns (OCT 2022)

* * * * *

(a) * * *

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation and qualified as a small business under the criteria and size standards in 13 CFR part 121, including the size standard that corresponds to the NAICS code assigned to the contrac t or subcontract.

* * * * *

(c)(1) A joint venture qualifies as a small business concern if—

(i) Each party to the joint venture qualifies as small under the size standard for the solicitation; or

(ii) The protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under a SBA mentor-protégé program.

(2) A joint venture qualifies as—

(i) A service-disabled veteran-owned small business concern if it complies with the requirements in 13 CFR part 125; or

(ii) A HUBZone small business concern if it complies with the requirements in 13 CFR 126.616(a) through (c).

* * * * *

(e) * * *

(5) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern. If the subcontractor is a joint venture, the Contractor shall confirm that at least one party to the joint venture is certified by SBA as a HUBZone small business concern. The Contractor may confirm the representation by accessing the System for Award Management or contacting SBA. Options for contacting the SBA include—

* * * * *

■ 19. Amend section 52.219–9 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (e)(4) the phrase ''52.219–8(d)(2)'' and adding the phrase ''52.219–8(e)(2)'' in its place.

The revision reads as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (OCT 2022)

* * * * *

■ 20. Amend section 52.219–14 by revising the date of the clause and paragraph (g) to read as follows:

52.219–14 Limitations on Subcontracting.

* * * * *

Limitations on Subcontracting (OCT 2022)

* * * * *

(g) A joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (e) of this clause will be performed by the aggregate of the joint venture participants.

(1) In a joint venture comprised of a small business protégé and its mentor approved by the Small Business Administration, the small business protégé shall perform at least 40 percent of the work performed by the joint venture. Work performed by the small business protégé in the joint venture must be more than administrative functions.

(2) In an 8(a) joint venture, the 8(a) participant(s) shall perform at least 40 percent of the work performed by the joint venture. Work performed by the 8(a) participants in the joint venture must be more than administrative functions.

* * * * *

■ 21. Amend section 52.219–18 by—
■ a. Revising the date of the clause and paragraph (a);
■ b. Removing from paragraph (b) the phrase ''all of the'' and adding the phrase ''the applicable'' in its place;
■ c. Adding a sentence to the end of paragraph (c); and
■ d. Revising Alternate I.

The revisions and addition read as follows:

52.219–18 Notification of Competition Limited to Eligible 8(a) Participants.

* * * * *

Notification of Competition Limited to Eligible 8(a) Participants (OCT 2022)

(a) Offers are solicited only from—

(1) Small business concerns expressly certified by the Small Business Administration (SBA) for participation in SBA's 8(a) program and which meet the following criteria at the time of submission of offer—

(i) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

(ii) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by SBA;

(2) A joint venture, in which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause, that complies with 13 CFR 124.513(c); or

(3) A joint venture—

(i) That is comprised of a mentor and an 8(a) protégé with an approved mentor-protégé agreement under the 8(a) program;

(ii) In which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause; and

(iii) That complies with 13 CFR 124.513(c).

* * * * *

(c) * * * A contracting officer may consider a joint venture for contract award. SBA does not approve joint ventures for competitive awards, but see 13 CFR 124.501(g) for SBA's determination of participant eligibility.

* * * * *

Alternate I (OCT 2022). If the competition is to be limited to 8(a) participants within one or more specific SBA regions or districts, add the following paragraph (a)(1)(iii) to paragraph (a) of the clause:

(iii) The offeror's approved business plan is on the file and serviced by ____[*Contracting Officer completes by inserting the appropriate SBA District and/or Regional Office(s) as identified by the SBA*].

■ 22. Amend section 52.219–27 by revising the date of the clause and paragraph (d) and adding paragraph (e) to read as follows:

52.219–27 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside.

* * * * *

Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (OCT 2022)

* * * * *

(d) A joint venture may be considered a service-disabled veteran owned small business concern if—

(1) At least one party to the joint venture complies with the criteria defined in paragraph (a) of this clause and 13 CFR 125.18(b)(2); and

(2) Each party to the joint venture is small under the size standard corresponding to the NAICS code assigned to the procurement, or the protégé is small under the size standard corresponding to the NAICS code assigned to the procurement in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under an SBA mentor-protégé program.

(e) In a joint venture that complies with paragraph (f) of this clause, the service-disabled veteran-owned small business party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the service-disabled veteran-owned small business party or parties to the joint venture must be more than administrative functions.

* * * * *

■ 23. Amend section 52.219–28 by revising the date of the clause, and in paragraph (a) revising paragraph (1) of the definition of ''Small business concern'' to read as follows:

52.219–28 Post-Award Small Business Program Rerepresentation.

* * * * *

Post-Award Small Business Program Rerepresentation (OCT 2022)

(a) * * *

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (d) of this clause.

* * * * *

■ 24. Amend section 52.219–29 by—

■ a. Revising the date of the clause;

■ b. In paragraph (a), in the definition ''*Economically disadvantaged women-owned small business (EDWOSB)*'' removing the phrase ''It automatically'' and adding the phrase ''An EDWOSB concern automatically'' in its place;

■ c. Revising paragraph (d); and

■ d. Adding paragraph (e).

The revisions and addition read as follows:

52.219–29 Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns.

* * * * *

Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (OCT 2022)

* * * * *

(d) *Joint Venture.* A joint venture may be considered an EDWOSB concern if—

(1) At least one party to the joint venture complies with the criteria defined in paragraph (a) and paragraph (c)(3) of this clause, and 13 CFR 127.506(c); and

(2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under the SBA mentor-protégé program.

(e) In a joint venture that complies with paragraph (d) of this clause, the EDWOSB party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the EDWOSB party or parties to the joint venture must be more than administrative functions.

* * * * *

■ 25. Amend section 52.219–30 by revising the date of the clause and paragraph (d) and adding paragraph (e) to read as follows:

52.219–30 Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program.

* * * * *

Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (OCT 2022)

* * * * *

(d) *Joint Venture.* A joint venture may be considered a WOSB concern eligible under the WOSB Program if—

(1) At least one party to the joint venture complies with the criteria defined in paragraph (a) and (c)(3) of this clause, and 13 CFR 127.506(c); and

(2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under the SBA mentor-protégé program.

(e) In a joint venture that complies with paragraph (d) of this clause, the WOSB party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the WOSB party or parties to the joint venture must be more than administrative functions.

* * * * *

■ 26. Amend section 52.244–6 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (c)(1)(vii) the date ''(OCT 2018)'' and adding the date ''(OCT 2022)'' in its place.

The revision reads as follows:

52.244–6 Subcontracts for Commercial Products and Commercial Services.

* * * * *

Subcontracts for Commercial Products and Commercial Services (OCT 2022)

* * * * *

[FR Doc. 2022–20340 Filed 9–22–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 12, 19, 36, and 43

[FAC 2022–08; FAR Case 2018–020; Item II; Docket No. FAR–2018–0020, Sequence No. 1]

RIN 9000–AN78

Federal Acquisition Regulation: Construction Contract Administration

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, to require agencies to provide a notice along with the solicitation to prospective bidders and offerors regarding definitization of requests for equitable adjustment related to change orders under construction contracts.

DATES: Effective October 28, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Bowman, Procurement Analyst, at 202–803–3188, or by email at *dana.bowman@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–08, FAR Case 2018–020.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule at 85 FR 18181 on April 1, 2020, to implement section 855 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115—232), codified at 15 U.S.C. 644(w) in the Small Business Act.

Section 855 requires Federal agencies to provide a notice, along with solicitations for construction contracts anticipated to be awarded to small businesses, to prospective offerors that includes information about the agency's policies or practices in complying with FAR requirements related to the timely definitization of requests for equitable adjustment on construction contracts. Definitization of requests for equitable adjustment occurs after the contracting officer receives, reviews, and conducts an analysis and audit of the information contained in a change order proposal, and results in an executed contractual action. The notice must also include data regarding the time it took the agency to definitize requests for equitable adjustment on construction contracts for the three-year period preceding the issuance of the notice.

FAR 36.211 requires agencies to furnish data for the three fiscal years preceding the issuance of the solicitation notice.

Six respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments received, and any changes made to the rule as a result of the public comments are provided as follows:

A. Summary of Significant Changes From the Proposed Rule

The following significant changes from the proposed rule are made in the final rule:

(1) Removal of Provision 52.236–XX; Replaced by Solicitation Notice

The final rule FAR text removes the proposed solicitation provision 52.236–XX, Notice Regarding Administration of Change Orders for Construction. The provision is replaced with an instruction to the contracting officer at FAR subpart 5.2, Synopses of Proposed Contract Actions. Specifically, 5.205(h), Special situations, requires contracting officers to transmit a notice in the solicitation notice on the Governmentwide point of entry (GPE) to meet the requirements of section 855 (15 U.S. C. 644(w)).

The final rule FAR text removes the proposed text at FAR subpart 36.5, Contract Clauses, and replaces it with text at subpart 36.2, Special Aspects of Contracting for Construction. Specifically, paragraph (b) is added to FAR section 36.211 to coincide with FAR 5.205(h) and to provide specifics on the information required in the solicitation notice. This change will allow agencies more flexibility to share their specific guidance or to provide explanatory commentary. The text from the removed provision, 52.236–XX, is converted into the text for the solicitation notice.

(2) Removal of ''publicly accessible website'' and ''website to be determined''; Replaced with ''agency specific, publicly accessible website'' and ''follow agency procedures''

FAR 36.211(b) requires contracting officers to provide a description of applicable policies or procedures in the notice or through ''an address of an agency-specific, publicly accessible website'' containing this information rather than through a provision to be filled in or a ''publicly accessible website.'' The agency's past performance data will be included in the table format provided at FAR 36.211(b) or on an agency-specific, publicly accessible website in lieu of a ''website to be determined'' as stated in the proposed rule.

This change will allow agencies more flexibility in how to share their specific guidance, and to provide explanatory commentary when appropriate.

(3) Clarifications

The final rule makes revisions at FAR part 43, Contract Modifications. Specifically, FAR 43.204(b)(3)(ii), regarding recording and maintaining data for definitizing equitable adjustments, is moved to paragraph (b)(1)(ii) to clarify that the requirement applies to all change orders. This paragraph replaces in two places the phrase ''shall use [website to be determined]'' with a reference to agency procedures to allow more flexibility in recording and maintaining the required data.

(4) Measurement of the Definitization of Equitable Adjustments

The final rule revises FAR 43.204(b)(1)(ii), previously FAR 43.204(b)(3)(ii) in the proposed rule, to identify the measurement of the definitization of equitable adjustments by including the following sentence: ''The definitization of an equitable adjustment begins upon receipt of an adequate change order definitization proposal by the contracting officer and ends upon the contracting officer's execution of a contractual action to definitize the change order.''

B. Analysis of Public Comments

1. Applicability/Authority for Appropriations

Comment: One respondent stated that NDAA appropriations are not applicable to non-DoD agencies. The respondent stated that the law should be incorporated into the Defense Federal Acquisition Regulation Supplement (DFARS) instead of the FAR.

Response: Congress often uses the annual NDAA as a vehicle for making Governmentwide acquisition law changes. In this instance, Congress amended section 15 of the Small Business Act (15 U.S.C. 644) in section 855 of the John S. McCain NDAA for FY 2019 (Pub. L. 115–232). The new requirements are codified at 15 U.S.C. 644(w). Since section 15 of the Small Business Act (15 U.S.C. 644) has Governmentwide applicability, it is appropriate for the requirements to be implemented in the FAR. No changes were made to the final rule as a result of this comment.

2. Past Performance Data

Comment: One respondent stated that the rule should allow agencies an opportunity to explain factors contributing to the time required to resolve equitable adjustments as the reasons are often beyond the Government's control. The respondent stated that historical data without context is irrelevant to predicting future time frames and otherwise makes the data meaningless.

Another respondent noted that construction contracts are usually administered by individual construction contract administration offices near the project site. The respondent stated that collecting agency-wide past performance data is not indicative of future time frames and cannot be correlated to accurately anticipate future conduct of an administering office. The respondent stated that the rule should be amended to allow agencies an opportunity to account for a contract change's specific facts and circumstances; otherwise, the data is meaningless.

A third respondent stated that allowing an ''explanatory commentary'' section in either the solicitation or a

public website for agencies to explain the metric or means used to compile or report the types of equitable adjustments included or excluded from the metrics would be helpful.

Response: While primary data without context has value, the Councils acknowledge context could enhance the value of historical data in some situations and that agencies should have the opportunity to provide additional relevant information. The FAR text is revised to remove the proposed provision 52.236–XX, Notice Regarding Administration of Change Orders for Construction, and replace it with a requirement for contracting officers to transmit a notice on the GPE in the solicitation notice as required by FAR part 5 to meet the requirements of section 855 (15 U.S.C. 644(w)). Additional text is added at FAR 5.205(h) to include the requirement for a solicitation notice on the GPE. Also, FAR 36.524 is replaced by FAR 36.211 to coincide with FAR 5.205(h) and to provide specifics on the information required in the solicitation notice (previously in the removed provision).

As previously included in paragraph (b) of the removed provision, contracting officers will include in the notice a description of the agency's applicable policies and procedures or the address of an agency-specific, publicly accessible website containing the information that applies to definitization of equitable adjustments for change orders under construction contracts. Additionally, the final rule revises ''publicly accessible website'' from paragraph (b) of the now removed provision to ''an agency-specific, publicly accessible website'' at 36.211(b)(1) and (2) to allow more flexibility for agencies to share their specific guidance or to provide explanatory commentary.

Also, the proposed rule text at FAR 43.204(b)(3)(ii) regarding recording and maintaining data for definitizing requests for equitable adjustment is moved to FAR 43.204(b)(1)(ii) to clarify that the requirement applies to all change orders. This paragraph replaces in two places ''[website to be determined]'' with a reference to ''agency procedures'' to allow more flexibility in recording and maintaining the required data.

3. Definitizing Equitable Adjustments

a. Equitable Adjustments in General Versus Unpriced Change Orders

Comment: One respondent stated that it was unclear if the intent was to disclose all equitable adjustments in general or only those for unpriced change orders. The respondent stated that the rule should be limited to disclosing past performance data accounting for the time associated with definitization of equitable adjustments for unpriced change orders and not the time associated with the resolution of equitable adjustments in general. The respondent indicated section 855 discusses the definitization process but is not applicable to undefinitized equitable adjustments and stated that the FAR rule should be revised to clearly and precisely reflect the definitization process.

Response: This final rule implements section 855 of the John S. McCain NDAA for FY 2019, which requires notification to prospective bidders and offerors regarding administration of change orders for construction and does not exclude any type of change order. For clarification purposes, the final rule moves the proposed text at 43.204(b)(3)(ii) to 43.204(b)(1)(ii) to clarify that applicability is to all change orders.

b. Incorporate Broader Definition for Clarification

Comment: One respondent stated that agencies have different standards for definitizing equitable adjustments and the FAR does not adequately define ''equitable adjustment;'' therefore, any resultant data reporting from Federal agencies will differ. The respondent stated that the rule should require agencies to incorporate the ''broadest possible definition'' in reporting the time to definitize an equitable adjustment. A second respondent stated that broadening the definition of a request for equitable adjustment to include contract modifications that result from either unilateral or bilateral changes would be helpful.

Response: FAR 43.204 and agency supplements provide the standard for definitizing equitable adjustments, while this rule adds the requirement for providing a notice to prospective bidders or offerors regarding definitization of change orders for construction. Also, the notice requirements at FAR 36.211(b)(1) (previously at FAR 36.524 and the removed provision) allows the agency issuing the solicitation to share the policies and procedures that apply to definitization of equitable adjustments for change orders under construction contracts. With this information all offerors will have the same understanding of each solicitation. A broader definition is not necessary considering the guidance that is already available in the FAR, agency supplements, and agency policies and procedures.

For clarification purposes, the final rule includes at FAR 43.204(b)(1)(ii) (previously at FAR 43.204(b)(3)(ii)) the parameter, per section 855 of the John S. McCain NDAA for FY 2019, that the measurement of definitizing equitable adjustments begins upon receipt of an adequate change order definitization proposal by the contracting officer and ends upon the contracting officer's execution of a contractual action to definitize the change order.

c. Measurement of Change Order Process

Comment: One respondent stated that measurement of the change order process should start when the contractor provides the contracting officer with an estimate of cost or provides schedule impacting decisions and the cost or changes are validated by the contracting officer as being within the scope of the contract.

Response: This FAR rule implements section 855 of the John S. McCain NDAA for FY 2019, which requires that measurement of the change order process begin upon receipt of a request for an equitable adjustment. For clarification purposes, the final rule identifies at FAR 43.204(b)(1)(ii) (previously at FAR 43.204(b)(3)(ii)) the measurement of the definitization of requests for equitable adjustment by including the following sentence, ''The definitization of an equitable adjustment begins upon receipt of an adequate change order definitization proposal by the contracting officer and ends upon the contracting officer's execution of a contractual action to definitize the change order.''

4. Cost/Administrative Burden

a. Collection Process Without Corresponding Benefits

Comment: One respondent stated that the transparency required by the FAR rule places undue costs and administrative burdens on agencies without corresponding benefits. The respondent also stated that by requiring disclosure of historical past performance data, the FAR rule will serve as a deterrent to some small business offerors and may cause small business offerors to inflate construction prices to mitigate possible lengthy equitable adjustment timeframes.

Response: The FAR rule is not intended to place undue costs and administrative burden on agencies or to deter small business contractors. In contrast, the rule provides small business contractors with useful

information that will allow them to make informed decisions and to properly plan and prepare proposals, thus providing agencies with corresponding benefits. Also, the disclosure of an agency's historical past performance data on the timeliness of definitization of equitable adjustments will provide potential small business offerors with data that can be used in deciding whether to submit a proposal and the knowledge to plan financially for possible incurred costs if delays are experienced in the definitization of equitable adjustments. As with the initial contract, contracting officers are required to negotiate equitable adjustments resulting from change orders to ensure the Government receives fair and reasonable pricing. Therefore, the final rule is unchanged as a result of this comment.

b. Centralized Tracking Website

Comment: One respondent stated that agencies are unlikely to have a centralized tool to track the required past performance data. The respondent stated that the rule should not be finalized until adequate funding is identified and a tracking tool can be designed, constructed, implemented, operated, and maintained.

Response: The Government does not intend to develop a centralized tool to track the past performance data required under this rule. Instead, the final rule, at FAR 43.204(b)(1)(ii) (previously at FAR 43.204 (b)(3)(ii)), replaces ''[website to be determined]'' with ''follow agency procedures'' to clarify the recording and maintenance of data; and revises the next to last sentence of FAR 43.204(b)(1)(ii) to state, ''The contracting officer shall ensure the data is recorded promptly in accordance with agency procedures.'' Additionally, the data (previously required by the removed provision) to be disclosed to offerors is required in the table provided at FAR 36.211(b)(2).

5. Support for the Rule

Comment: Two respondents expressed support for the rule.

Response: The Councils acknowledge the respondents' support for the rule.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items) or for Commercial Services

This rule implements a statutory requirement for Federal agencies to provide a notice, along with solicitations for construction contracts anticipated to be awarded to small businesses, to prospective offerors regarding agency policies or practices related to, and agency past performance in, complying with FAR requirements related to the timely definitization of requests for equitable adjustment resulting from change orders under construction contracts.

This rule does not create new solicitation provisions or contract clauses or impact any existing provisions or clauses.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to acquisitions at or below the SAT. Section 1905 generally limits the applicability of new laws when agencies are making acquisitions at or below the SAT, but provides that such acquisitions will not be exempt from a provision of law under certain circumstances, including when the Federal Acquisition Regulatory Council (FAR Council) makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law. The FAR Council has made a determination to apply 41 U.S.C 1905 to acquisitions at or below the SAT.

B. Applicability to Contracts for the Acquisition of Commercial Products, Including Commercially Available Off-The-Shelf (COTS) Items, or for Commercial Services

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products or services and is intended to limit the applicability of laws to those contracts. Section 1906 provides that if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt commercial product or commercial service contracts and subcontracts, the provision of law will apply to those contracts and subcontracts.

41 U.S.C. 1907 states that acquisitions of COTS items will be exempt from certain provisions of law unless the Administrator for Federal Procurement Policy makes a written determination and finds that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items.

The FAR Council did not make a determination to apply 41 U.S.C. 1906 to acquisitions for commercial products or commercial services. The Administrator for Federal Procurement Policy did not make a determination to apply 41 U.S.C. 1907 to acquisitions of COTS items.

IV. Expected Impact of the Rule

This rule requires agencies to provide a notice that includes information about the agency's policies or practices in complying with FAR requirements related to the timely definitization of equitable adjustments under construction contracts, along with solicitations for construction contracts anticipated to be awarded to small businesses. The notice will provide potential small business offerors with information that may be useful to them as they prepare, or decide whether to prepare and submit, a proposal in response to an agency's solicitation for construction. For example, if an agency has a poor history of definitizing equitable adjustments, potential small business offerors may reconsider whether to submit a proposal in response to that agency's solicitation. Alternately, when preparing their proposals, small business offerors may consider the additional costs that could be incurred if they were to experience delays in the timely definitization of equitable adjustments. Additionally, contracting offices and contract administration offices are required to collect data on the time required to definitize change orders for construction contracts. There will be no cost impact to the public other than a de minimis cost to read the notice. The notice is for informational purposes and does not require any action on the part of the public.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to

each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a final regulatory flexibility analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601–612. The FRFA is summarized as follows:

This rule is necessary to implement section 855 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232, codified at 15 U.S.C. 644(w)). Section 855 requires Federal agencies to provide a notice, along with solicitations for construction contracts anticipated to be awarded to small businesses, to prospective offerors regarding agency policies or practices in complying with FAR requirements related to the timely definitization of requests for equitable adjustment on construction contracts. The notice must also include data on the amount of time it took the agency to definitize requests for equitable adjustment on construction contracts during the three-year period preceding the issuance of the notice. FAR 36.211 requires agencies to furnish data for the three fiscal years preceding the issuance of the solicitation notice.

The objective of this rule is to provide contractors with information about an agency's past performance in definitizing equitable adjustments under construction contract change orders as required by section 855 of the NDAA for FY 2019.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

DoD, GSA, and NASA do not expect this change to have a significant economic impact on a substantial number of small entities because this rule is aimed primarily at Federal agencies, requiring them to provide a notice of their past performance on definitizing equitable adjustments for change orders under construction contracts. The notice will provide potential small business offerors with information that may be useful to them as they prepare, or decide whether to prepare, and submit a proposal in response to an agency's solicitation for construction. For example, if an agency has a poor history of definitizing equitable adjustments, potential small business offerors may reconsider whether to submit a proposal in response to that agency's solicitation. Alternately, when preparing their proposals, small business offerors may consider the additional costs that could be incurred if they were to experience delays in the timely definitization of equitable adjustments.

An analysis of the Federal Procurement Data System reveals that an average of 2,280 unique entities per year were awarded construction contracts during FY 2017, FY 2018, and FY 2019. Of those, 1,797 were small entities. The number of construction contracts awarded in FY 2017, FY 2018, and FY 2019 averaged 4,349 per year, of which 3,323 were awarded to small entities. Additionally, during these same years, an average of 3,659 construction-related task orders were awarded each year to approximately 1,054 unique entities; 2,991 of those task orders were awarded to 838 small entities. On average, over FY 2017, FY 2018, and FY 2019, 6,422 modifications were issued each year to approximately 1,542 entities for change orders or definitization of change orders under construction contracts. Of those, approximately 3,702 modifications were issued to 1,125 small entities.

This final rule does not include any new reporting, recordkeeping or other compliance requirements for small entities.

There are no known significant alternative approaches that would accomplish the stated objectives of the applicable statute.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Parts 5, 12, 19, 36, and 43

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 5, 12, 19, 36, and 43 as set forth below:

■ 1. The authority citation for 48 CFR parts 5, 12, 19, 36, and 43 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 5—PUBLICIZING CONTRACT ACTIONS

■ 2. Amend section 5.205 by adding paragraph (h) to read as follows:

5.205 Special situations.

* * * * *

(h) *Notice regarding timely definitization of equitable adjustments for change orders under construction contracts.* When the contracting officer anticipates award of a contract to a small business pursuant to a solicitation for construction, the contracting officer must transmit in the solicitation notice on the GPE information regarding definitization of equitable adjustments for change orders under construction contracts (see 36.211).

PART 12—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 3. Amend section 12.503 by adding paragraph (a)(10) to read as follows:

12.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial products and commercial services.

(a) * * *

(10) 15 U.S.C. 644(w), Solicitation Notice Regarding Administration of Change Orders for Construction (see 36.211).

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 4. Add section 19.502–11 to read as follows:

19.502–11 Solicitation notice regarding administration of change orders for construction.

See 36.211 for the requirement to provide a notice to offerors regarding definitization of equitable adjustments for change orders under construction contracts.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

■ 5. Revise section 36.211 to read as follows:

36.211 Distribution of advance notices and solicitations.

(a) Advance notices and solicitations should be distributed to reach as many prospective offerors as practicable. Contracting officers may send notices and solicitations to organizations that maintain, without charge to the public, display rooms for the benefit of prospective offerors, subcontractors, and material suppliers. If requested by such organizations, this may be done for all or a stated class of construction projects on an annual or semiannual basis. Contracting officers may determine the geographical extent of distribution of advance notices and solicitations on a case-by-case basis.

(b) As required by 15 U.S.C. 644(w), the contracting officer shall transmit to the Governmentwide point of entry (GPE) a notice (see 5.205(h), in solicitation notices posted at the GPE for construction contracts anticipated to be awarded to a small business pursuant to part 19. The notice shall include certain information regarding the agency's

definitization of equitable adjustments for change orders under construction contracts. This information includes:

(1) A description of agency policies or procedures, in addition to that outlined in FAR 43.204, that apply to definitization of equitable adjustments for change orders under construction contracts. This description may be provided in a notice by including an address of an agency-specific, publicly accessible website containing this information. If no agency-specific additional policies and procedures exist, the notice shall include a statement to that effect.

(2) Data on the agency's past performance, for the prior 3 fiscal years, regarding the time required to definitize equitable adjustments for change orders under construction contracts (see 43.204). If fewer than 3 fiscal years of data are available, agencies shall provide data for the number of fiscal years that are available. Data shall be provided in the solicitation notice as shown in the following table, or provide the address of an agency-specific, publicly accessible website containing this information. An adequate change order definitization proposal shall contain sufficient information to enable the contracting officer to conduct meaningful analyses and audits of the information contained in the proposal.

TABLE 1 TO PARAGRAPH (b)(2)

Time to definitize after receipt of an adequate change order definitization proposal under construction contracts	Number of change order proposals definitized under construction contracts
30 days or less	
31 to 60 days	
61 to 90 days	
91 to 180 days	
181 to 365 days	
366 or more days	
After completion of contract performance via a contract modification addressing all undefinitized equitable adjustments received during contract performance.	

■ 6. Revise section 36.500 to read as follows:

36.500 Scope of subpart.

(a) This subpart prescribes provisions and clauses for insertion in solicitations and contracts for—

(1) Construction; and

(2) Dismantling, demolition, or removal of improvements contracts.

(b) Provisions and clauses prescribed elsewhere in the Federal Acquisition Regulation (FAR) shall also be used in such solicitations and contracts when the conditions specified in the prescriptions for the provisions and clauses are applicable.

PART 43—CONTRACT MODIFICATIONS

■ 7. Amend section 43.204 by redesignating paragraph (b)(1) as paragraph (b)(1)(i) and adding paragraph (b)(1)(ii) to read as follows:

43.204 Administration.

(b) * * *

(1)(i) * * *

(ii) Agencies shall, in accordance with agency procedures, record and maintain data regarding the time required to definitize equitable adjustments associated with change orders for construction. The definitization of an equitable adjustment begins upon receipt of an adequate change order definitization proposal by the contracting officer, and ends upon the contracting officer's execution of a contractual action to definitize the change order. The contracting officer shall ensure the data is recorded promptly in accordance with agency procedures. See 36.211(b).

* * * * *

[FR Doc. 2022–20341 Filed 9–22–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 5, 6, 13, 19, and 52

[FAC 2022–08; FAR Case 2019–007; Item III; Docket No. FAR–2019–0007, Sequence No. 1]

RIN 9000–AN90

Federal Acquisition Regulation: Update of Historically Underutilized Business Zone Program

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement changes to the Small Business Administration's regulations for the Historically Underutilized Business Zone Program to reflect current policies, eliminate ambiguities, and reduce burdens on small businesses and procuring agencies.

DATES: Effective October 28, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Malissa Jones, Procurement Analyst, at 703–605–2815 or by email at *Malissa.Jones@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–08, FAR Case 2019–007.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 86 FR 31468 on June 14, 2021, to implement regulatory changes made by the Small Business Administration (SBA) to the Historically Underutilized Business Zone (HUBZone) Program. Following a review of its HUBZone program regulations, SBA issued a final rule on November 26, 2019, at 84 FR 65222, to update its regulations to reflect current policies, eliminate ambiguities, and reduce burdens on small businesses and procuring agencies. For details see the proposed rule and Section IV below.

Two respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule; however, no changes were made as a result of the public comments received. A discussion

of the comments received is provided as follows:

A. Summary of Significant Changes From The Proposed Rule

There are no significant changes from the proposed rule.

B. Analysis of Public Comments

1. Support for the Rule

Comment: One respondent expressed support for the rule.

Response: The Councils acknowledge the respondent's support for the rule.

2. Clarifications

Comment: One respondent questioned the need for a checkbox for HUBZone ''self-certification'' in the representations at FAR 52.212–3(c)(10)(i) and 52.219–1(c)(8)(i) if a firm's HUBZone status is determined by the Small Business Administration (SBA).

Response: This rule implements SBA's final rule published November 26, 2019, at 84 FR 65222, which modified the HUBZone certification process to reduce the burden on HUBZone small business concerns. As a result, HUBZone entities are certified by SBA annually, which will allow entities to remain eligible for future HUBZone contracts for the entire year, rather than having to represent its status with each offer. However, the checkbox in the representations is still necessary, as a HUBZone entity must represent whether it is or is not a HUBZone small business concern certified by SBA in the Dynamic Small Business Search (DSBS) and represent that it will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract in accordance with 13 CFR 126.200(e)(1).

3. Outside the Scope of the Rule

Comment: One respondent recommended increasing the number of HUBZone small business set-asides.

Response: This is outside the scope of this rule.

C. Other Changes

This rule makes minor editorial changes from the proposed rule in FAR parts 2 and 19, in the provisions at FAR 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services, and 52.219–1, Small Business Program Representations, and in the clauses at 52.219–8, Utilization of Small Business Concerns, and 52.219–9, Small Business Subcontracting Plan.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items, or for Commercial Services

This rule amends the provision and clauses at FAR 52.212–3, 52.212–5, 52.213–4, 52.219–1, 52.219–3, 52.219–4, 52.219–8, 52.219–9, and 52.244–6. The provisions and clauses associated with implementation of the HUBZone program continue to apply to acquisitions for commercial products, including COTS items, or for commercial services. As explained below, this rule also applies all HUBZone program provisions and clauses to acquisitions at or below the SAT.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to acquisitions at or below the SAT. Section 1905 generally limits the applicability of new laws when agencies are making acquisitions at or below the SAT, but provides that such acquisitions will not be exempt from a provision of law under certain circumstances, including when the Federal Acquisition Regulatory Council (FAR Council) makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law. The FAR Council has made a determination to apply this statute to acquisitions at or below the SAT.

B. Determination

The HUBZone Act of 1997, including 15 U.S.C. 657a, tasks SBA with administering a program to assist participating small businesses located in areas with low income levels, high poverty and high unemployment rates, Indian reservations, closed military bases, or disaster areas with contracting opportunities in the form of set-asides, sole-source awards, and price-evaluation preferences. Its primary objectives are job creation and increased capital investment in distressed communities.

The law is silent on the applicability of these requirements to acquisitions at or below the SAT and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1905 and its application to acquisitions at or below the SAT. Therefore, it does not apply to acquisitions at or below the SAT unless the FAR Council makes a written determination as provided at 41 U.S.C. 1905.

The FAR Council implemented the SBA's HUBZone program, which implemented the HUBZone Act, through an interim rule published on December 18, 1998 and effective on January 4, 1999 (63 FR 70265). A final rule was published on September 24, 1999 (64 FR 51830). The FAR rule added the HUBZone Act to the list of laws inapplicable to contracts and subcontracts at or below the SAT at FAR 13.005. This final rule removes the HUBZone Act from the list of laws inapplicable to contracts and subcontracts at or below the SAT at FAR 13.005 and makes other conforming changes.

Applying the rule to acquisitions at or below the SAT furthers the longstanding policy expressed in FAR 19.201 of promoting ''maximum practicable opportunities'' to HUBZone contractors in Government contracting and the Administration's express commitment, reflected in E.O. 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, to advance equity for underserved communities. According to the Federal Procurement Data System, an average of 108,233 contracts per year resulted from FAR part 19 set-asides and sole-source awards at or below the SAT during fiscal years 2019 through 2021. Failure to apply the HUBZone Act to the significant number of acquisitions that are conducted each year at or below the SAT would prevent agencies from using the authorities of this program to maximize opportunities for HUBZone small businesses in the Federal marketplace. The Federal Government has a policy of promoting HUBZone participation in Government contracting. The Small Business Act (Section 15(g)(1), 15 U.S.C. 644(g)(1)) includes a 3% annual HUBZone contracting goal for all prime contracts and subcontract awards each fiscal year. Historically, the Federal Government has not achieved the HUBZone goal. Application of the HUBZone Act to procurements at or below the SAT will aid Federal agencies in achieving the HUBZone contracting goal.

For these reasons, it is in the best interest of the Federal Government to apply the requirements of the rule to acquisitions at or below the SAT.

IV. Expected Impact of the Rule

This final rule will impact the operations of the Government and HUBZone entities as described in this section. This rule specifies that SBA

now certifies firms as HUBZone small business concerns in DSBS. As a result, HUBZone entities are certified by SBA annually, which will allow HUBZone entities to remain eligible for HUBZone contracts for the entire year rather than being required to represent their status for each offer. HUBZone small business certification data contained in DSBS is also available in the System for Award Management (SAM); therefore, contracting officers may use DSBS or SAM to identify certified HUBZone small business concerns.

Contracting officers may award HUBZone set-aside and sole-source contracts at or below the simplified acquisition threshold. This change will increase the benefits from HUBZone set-aside and sole-source contracts and increase HUBZone small businesses' opportunities in the Federal marketplace.

Additionally, minor changes are made to the processing of HUBZone status protests.

This final rule is not expected to result in any costs to contractors or offerors.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601–612. The FRFA is summarized as follows:

DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement revisions the Small Business Administration (SBA) made in its regulations for the Historically Underutilized Business Zone (HUBZone) Program. Following a review of its HUBZone program regulations, SBA issued a final rule on November 26, 2019, at 84 FR 65222, to update its regulations to reflect current policies, eliminate ambiguities, and reduce burdens on small businesses and procuring agencies. This final FAR rule updates terminology and processes to correspond with SBA's changes, such as updating the definition of HUBZone small business concern and procedures for filing and processing HUBZone protests. This rule also removes the restriction against applying the HUBZone Act of 1997 (15 U.S.C. 657a) to contracts and subcontracts at or below the simplified acquisition threshold (SAT).

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

This rule may have a positive economic impact on small entities that qualify for the HUBZone program and that are interested in participating in Federal procurement. By reducing the burden on firms interested in becoming HUBZone small business concerns, more firms may participate in and benefit from the program. SBA's Dynamic Small Business Search database includes 6,417 small business concerns with active HUBZone certifications. In fiscal years 2019, 2020, and 2021, the Federal Government made approximately 177,166 awards to SBA certified HUBZone small business concerns. Approximately 9,104 of these were awarded to 2,416 unique entities through a HUBZone set-aside under the HUBZone program; 584 were awarded to 408 unique entities on a sole-source basis under the HUBZone program; and 54 were awarded to 47 unique entities using the HUBZone price evaluation preference. Approximately 58,750 were awarded to HUBZone small businesses in open competition with other firms. According to the Federal Procurement Data System, an average of 108,233 contracts per year resulted from FAR part 19 set-asides and sole-source awards at or below the SAT during fiscal years 2019, 2020, and 2021. Contracting officers will now be able to award HUBZone set-aside and sole-source contracts at or below the simplified acquisition threshold. Application of the HUBZone Act of 1997, 15 U.S.C. 657a, to acquisitions at or below the SAT will increase the benefits from HUBZone set-aside and sole-source contracts and increase HUBZone small businesses' opportunities in the Federal marketplace.

This final rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities.

There are no known significant alternative approaches to the final rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501–3521) applies to the information collection described in this rule; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0136, Commercial Acquisitions and 9000–0007, Subcontracting Plans.

List of Subjects in 48 CFR Parts 2, 5, 6, 13, 19, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 5, 6, 13, 19, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 5, 6, 13, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b)(2) by—

■ a. In the definition ''HUBZone'' removing the phrase ''or redesignated areas,'' and adding the phrase ''redesignated areas, governor-designated covered areas, or qualified disaster areas,'' in its place;

■ b. In the definition ''HUBZone contract'' removing from paragraph (1) the phrase ''sole source'' and adding the phrase ''sole-source'' in its place; and

■ c. Revising the definition ''HUBZone small business concern''.

The revision reads as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

HUBZone small business concern means a small business concern that meets the requirements described in 13 CFR 126.200, is certified by the Small Business Administration (SBA) and designated by SBA as a HUBZone small business concern in the Dynamic Small Business Search (DSBS) (13 CFR 126.103). SBA's designation also appears in SAM.

* * * * *

PART 5—PUBLICIZING CONTRACT ACTIONS

5.206 [Amended]

■ 3. Amend section 5.206 in paragraph (a) introductory text, by removing the word ''qualified''.

PART 6—COMPETITION REQUIREMENTS

■ 4. Amend section 6.205 by revising paragraph (a) and removing from paragraph (b) the word ''qualified''.

The revision reads as follows:

6.205 Set-asides for HUBZone small business concerns.

(a) To fulfill the statutory requirements relating to the HUBZone Act of 1997 (15 U.S.C. 631 note), contracting officers may set aside solicitations to allow only HUBZone small business concerns to compete (see 19.1305).

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.003 [Amended]

■ 5. Amend section 13.003 in paragraph (b)(2)(ii) by removing the phrase ''and 19.1306(a)(4)''.

13.005 [Amended]

■ 6. Amend section 13.005 by removing paragraph (a)(5), and redesignating paragraphs (a)(6) through (8) as paragraphs (a)(5) through (7), respectively.

PART 19—SMALL BUSINESS PROGRAMS

19.301–1 [Amended]

■ 7. Amend section 19.301–1 in paragraph (d) by removing the phrase ''concern both at the time of initial offer and at the time of contract award'' and adding the phrase ''concern at the time of initial offer'' in its place.

■ 8. Amend section 19.306 by—

■ a. Revising paragraph (b);

■ b. In paragraph (c) removing the phrase ''HUBZone qualifying'' and adding the phrase ''HUBZone eligibility'' in its place;

■ c. Revising paragraph (d);

■ d. In paragraph (e)—

■ i. Revising the heading;

■ ii. Removing from paragraph (e)(1) introductory text the word ''protest'' and adding the words ''written protest'' in its place;

■ e. Revising paragraphs (f) and (h)(1)(ii);

■ f. Removing paragraph (h)(3);

■ g. In paragraph (i)—

■ i. Removing from the introductory text ''The HUBZone Program Director'' and ''(AA/GCBD)'' and adding ''SBA'' and ''(AA/GC&BD)'' in their places, respectively;

■ ii. Revising the second sentence of paragraph (i)(1);

■ iii. Removing from paragraph (i)(2) ''AA/GCBD'' and adding ''AA/GC&BD'' in its place;

■ iv. Revising paragraph (i)(3);

■ v. Removing from paragraph (i)(4) ''(h)(1)(ii) or (h)(3)'' and in two places removing ''(AA/GCBD)'' and adding ''(h)(1)(ii)(B)'', and ''(AA/GC&BD)'' in their places, respectively; and

■ vi. Revising paragraph (i)(5).

■ h. In paragraph (l)—

■ i. Adding to the end of paragraph (l)(1)(i) the word ''and'';

■ ii. Removing paragraph (l)(1)(ii) and redesignating paragraph (l)(1)(iii) as paragraph (l)(1)(ii); and

■ iii. Removing from paragraph (l)(2) ''Director/HUB's decision'' and adding ''HUBZone Program Director's determination'' in its place; and

■ i. Removing from paragraph (m) ''AA/GCBD'' and adding ''AA/GC&BD'' in its place and removing ''AA/GCBD's'' and adding ''AA/GC&BD's'' in its place.

The revisions read as follows:

19.306 Protesting a firm's status as a HUBZone small business concern.

* * * * *

(b)(1) For sole-source procurements, SBA or the contracting officer may protest the prospective contractor's certified HUBZone status; for all other procurements, SBA, the contracting officer, or any other interested party may protest the apparent successful offeror's certified HUBZone status (see 13 CFR 126.800).

(2) The Director of SBA's Office of the HUBZone Program will determine whether the concern has certified HUBZone status. If SBA upholds the protest, SBA will remove the concern's HUBZone status in the Dynamic Small Business Search (DSBS). SBA's protest regulations are found in subpart H ''Protests'' at 13 CFR 126.800 through 126.805.

* * * * *

(d)(1) All protests must be in writing and must state all specific grounds for the protest (*i.e.,* why the protested concern did not meet the eligibility requirements at 13 CFR 126.200 at the time of the concern's application to SBA for certification as a HUBZone small business concern or at the time SBA certified or last recertified the concern as a HUBZone small business concern). Assertions that a protested concern is not a HUBZone small business concern, without setting forth specific facts or allegations, will not be considered by SBA (see 13 CFR 126.801(b)).

(2) Protests filed against a HUBZone joint venture must state one or, if applicable, both of the following:

(i) Why the HUBZone small business party to the joint venture did not meet the eligibility requirements at 13 CFR 126.200 at the time of its application to SBA for certification or at the time SBA certified or last recertified the concern as a HUBZone small business concern.

(ii) Why the joint venture did not meet the requirements at 13 CFR 126.616 at the time of submission of its offer for a HUBZone contract.

(e) *Submission of a protest.* * * *

* * * * *

(f) The contracting officer shall forward all protests with a referral letter to the Director of SBA's Office of the HUBZone Program, by email to *hzprotests@sba.gov.* The referral letter shall include the following—

(1) The solicitation number;

(2) The contracting officer's name and contact information;

(3) The type of HUBZone contract (*i.e.,* sole-source, set-aside, full and open competition with a HUBZone price evaluation preference, or reserve for HUBZone small business concerns under a multiple-award contract);

(4) For a procurement conducted using full and open competition with a HUBZone price evaluation preference, whether the protester's opportunity for award was affected by the preference;

(5) For a HUBZone set-aside, whether the protester submitted an offer;

(6) Whether the protested concern was the apparent successful offeror;

(7) Whether the procurement was conducted using sealed bid or negotiated procedures;

(8) The bid opening date, if applicable;

(9) The date the protester was notified of the apparent successful offeror;

(10) The date the contracting officer received the protest;

(11) The date the protested concern submitted its initial offer or quote to the contracting officer; and

(12) Whether a contract has been awarded, and if so, the date of award and contract number.

* * * * *

(h) * * *

(1) * * *

(ii) Award the contract if—

(A) SBA does not issue its decision within 15 business days after receipt of the protest; and

(B) The contracting officer determines in writing that there is an immediate need to award the contract and that

waiting for SBA's determination will be disadvantageous to the Government.

* * * * *

(i) * * *

(1) * * *. If the AA/GC&BD subsequently overturns the initial determination or dismissal, the contracting officer may apply the AA/GC&BD decision to the procurement in question.

* * * * *

(3) If the contracting officer has made a written determination in accordance with (h)(1)(ii)(B) of this section, awarded the contract, and the Director of SBA's Office of the HUBZone Program's ruling sustaining the protest is received after award—

(i) The contracting officer shall either—

(A) Terminate the contract; or

(B)(*1*) Make a written determination that termination is not in the best interests of the Government; and

(*2*) Not exercise any options or award further task or delivery orders under the contract.

(ii) SBA will remove the concern's designation as a certified HUBZone small business concern in the Dynamic Small Business Search (DSBS). The concern is not permitted to submit an offer as a HUBZone small business concern until SBA issues a decision that the ineligibility is resolved; and

(iii) After SBA updates the concern's designation as a HUBZone small business in DSBS, the contracting officer shall update the Federal Procurement Data System (FPDS) to reflect the final decision of the HUBZone Program Director if no appeal is filed.

* * * * *

(5) If the AA/GC&BD affirms the decision of the HUBZone Program Director, finding the protested concern is ineligible, and contract award has occurred—

(i) The contracting officer shall either—

(A) Terminate the contract; or

(B)(*1*) Make a written determination that termination is not in the best interests of the Government; and

(*2*) Not exercise any options or award further task or delivery orders under the contract;

(ii) SBA will remove the concern's designation as a certified HUBZone small business concern in DSBS. The concern is not permitted to submit an offer as a HUBZone small business concern until SBA issues a decision that the ineligibility is resolved or the AA/GC&BD finds the concern is eligible on appeal; and

(iii) After SBA updates the concern's designation as a HUBZone small business in DSBS, the contracting officer shall update FPDS to reflect the AA/GC&BD decision.

* * * * *

19.1302 [Removed and Reserved]

■ 9. Remove and reserve section 19.1302.

■ 10. Amend section 19.1303 by revising paragraphs (b) and (d) to read as follows:

19.1303 Status as a HUBZone small business concern.

* * * * *

(b) If SBA determines that a concern is a HUBZone small business, it will designate the concern as a HUBZone small business in the Dynamic Small Business Search (DSBS) at *https://web.sba.gov/pro-net/search/dsp_dsbs.cfm.* SBA's designation also appears in SAM. Only firms designated in DSBS and SAM as HUBZone small business concerns are eligible for HUBZone preferences. HUBZone preferences are not contingent on the place of performance.

* * * * *

(d) To be eligible for a HUBZone contract under this section, a HUBZone small business concern must be a HUBZone small business concern at the time of its initial offer.

19.1304 [Amended]

■ 11. Amend section 19.1304 by—

■ a. Adding to the end of paragraph (d) the word ''or'';

■ b. Removing paragraph (e); and

■ c. Redesignating paragraph (f) as paragraph (e).

19.1305 [Amended]

■ 12. Amend section 19.1305 by—

■ a. Removing from paragraph (a)(3) the phrase ''sole source'' and adding the phrase ''sole-source'' in its place;

■ b. Removing from paragraph (c) the word ''qualified'';

■ c. In paragraph (d)—

■ i. Removing from the introductory text the phrase '', except for acquisitions not exceeding the simplified acquisition threshold,''; and

■ ii. Removing from paragraph (d)(2) the word ''acquisition'' and adding the phrase ''acquisition until the head of the contracting activity issues a written decision on the appeal,'' in its place.

■ 13. Amend section 19.1306 by—

■ a. Revising the section heading;

■ b. In paragraph (a)—

■ i. Removing from the introductory text the phrase ''sole source'' and adding the phrase ''sole-source'' in its place;

■ ii. Removing paragraph (a)(4);

■ iii. Redesignating paragraphs (a)(5) and (6) as paragraphs (a)(4) and (5); and

■ c. Removing from paragraph (b) the phrase ''sole source award'' and adding the phrase ''sole-source award (see 13 CFR 126.610)'' in its place.

The revision reads as follows:

19.1306 HUBZone sole-source awards.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 14. Amend section 52.212–3 by revising the date of the provision and paragraph (c)(10)(i) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Products and Services.

* * * * *

Offeror Representations and Certifications—Commercial Products and Services (Oct 2022)

* * * * *

(c) * * *

(10) * * *

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200(e)(1)); and

* * * * *

■ 15. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (b)(11) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ c. Removing from paragraph (b)(12) the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ d. Removing from paragraph (b)(16) the date ''(OCT 2018)'' and adding the date ''(OCT 2022)'' in its place;

■ e. Removing from paragraph (b)(17)(i) the date ''(NOV 2021)'' and adding the date ''(OCT 2022)'' in its place;

■ f. In paragraph (e)(1)—

■ i. Removing from the introductory text the phrase ''(e)(1) of this paragraph'' and adding the phrase ''(e)(1),'' in its place; and

■ ii. Removing from paragraph (e)(1)(v) the date ''(OCT 2018)'' and adding the date ''(OCT 2022)'' in its place;

■ g. In Alternate II—

■ i. Revising the date; and

■ ii. In paragraph (e)(1)(ii)(E) removing the date ''(OCT 2018)'' and adding the date ''(OCT 2022)'' in its place.

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (OCT 2022)

* * * * *

Alternate II (OCT 2022). * * *

* * * * *

■ 16. Amend section 52.213–4 by revising the date of the clause and removing from paragraph (a)(2)(viii) the date ''(JAN 2022)'' and adding the date ''**(OCT 2022)**'' in its place.

The revision reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (Oct 2022)

* * * * *

■ 17. Amend section 52.219–1 by revising the date of the provision and paragraph (c)(8)(i) to read as follows:

52.219–1 Small Business Program Representations.

* * * * *

Small Business Program Representations (Oct 2022)

* * * * *

(c) * * *

(8) * * *

(i) It □ is, □ is not a HUBZone small business concern listed, on the date of this representation, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200(e)(1)); and

* * * * *

■ 18. Amend section 52.219–3 by—

■ a. Revising the date of the clause;

■ b. Revising paragraph (d) and (e); and

■ c. Removing paragraph (f).

The revisions read as follows:

52.219–3 Notice of HUBZone Set-Aside or Sole-Source Award.

* * * * *

Notice of HUBZone Set-Aside or Sole-Source Award (Oct 2022)

* * * * *

(d) *Joint venture.* A joint venture may be considered a HUBZone concern if—

(1) At least one party to the joint venture is a HUBZone small business concern and complies with 13 CFR 126.616(c); and

(2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under the SBA mentor-protégé program.

(e) A HUBZone joint venture agrees that, in the performance of the contract, at least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business party or parties to the joint venture must be more than administrative functions.

* * * * *

■ 19. Amend section 52.219–4 by—

■ a. Revising the date of the clause;

■ b. Revising paragraph (c); and

■ c. Removing paragraph (d).

The revisions read as follows:

52.219–4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.

* * * * *

Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2022)

* * * * *

(c) *Joint venture.* A HUBZone joint venture agrees that, in the performance of the contract, at least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business parties to the joint venture must be more than administrative functions.

■ 20. Amend section 52.219–8 by—

■ a. Revising the date of the clause;

■ b. In paragraph (a), revising the definition ''HUBZone small business concern''; and

■ c. Revising paragraph (e)(5).

The revisions read as follows:

52.219–8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns (OCT 2022)

(a) * * *

HUBZone small business concern means a small business concern that meets the requirements described in 13 CFR 126.200, certified by the Small Business Administration (SBA) and designated by SBA as a HUBZone small business concern in the Dynamic Small Business Search (DSBS) and SAM.

* * * * *

(e) * * *

(5) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing SAM or by accessing DSBS at *https://web.sba.gov/pro-net/search/dsp_dsbs.cfm.* If the subcontractor is a joint venture, the Contractor shall confirm that at least one party to the joint venture is certified by SBA as a HUBZone small business concern. The Contractor may confirm the representation by accessing SAM.

* * * * *

■ 21. Amend section 52.219–9 by revising the date of the clause and paragraph (e)(4) to read as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (OCT 2022)

* * * * *

(e) * * *

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing SAM or by accessing the Dynamic Small Business Search (DSBS) at *https://web.sba.gov/pro-net/search/dsp_dsbs.cfm.*

* * * * *

■ 22. Amend section 52.244–6 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (c)(1)(vii) the date ''(Oct 2018)'' and adding the date ''(OCT 2022)'' in its place.

The revision reads as follows:

52.244–6 Subcontracts for Commercial Products and Commercial Services.

* * * * *

Subcontracts for Commercial Products and Commercial Services (OCT 2022)

* * * * *

[FR Doc. 2022–20342 Filed 9–22–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 19, and 52

[FAC 2022–08; FAR Case 2020–013; Item IV; Docket No. FAR–2021–0009, Sequence No. 1]

RIN 9000–AO17

Federal Acquisition Regulation: Certification of Women-Owned Small Businesses

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the final rule published by the Small Business Administration implementing a section of the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year (FY) 2015.

DATES: Effective October 28, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Malissa Jones, Procurement Analyst, at 571–882–4687, or by email at *Malissa.jones@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–08, FAR Case 2020–013.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 86 FR 55769 on October 7, 2021, to amend the FAR to implement section 825(a)(1) of the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Pub. L. 113–291), which amended 15 U.S.C. 637(m), and the Small Business Administration (SBA) final rule at 85 FR 27650 issued on May 11, 2020, implementing section 825(a)(1). Five respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule and as a result, a clarifying change has been made to 19.1505(d); however, there are no significant changes from the proposed rule. A discussion of the comments received is provided as follows:

A. Summary of Significant Changes From the Proposed Rule

There are no significant changes from the proposed rule.

B. Analysis of Public Comments

1. Support for the Rule

Comment: One respondent expressed support for the rule.

Response: The Councils acknowledge the respondent's support for the rule.

2. Women-Owned Small Business Certification Process

Comment: Two respondents expressed concern regarding the changes to the women-owned small business (WOSB) certification process, indicating it is overly complex and is a barrier to entry into the Federal marketplace for WOSB concerns. One respondent also indicated that the new process will extend award times by requiring contracting officers to check the Dynamic Small Business Search (DSBS) to verify the certification status of WOSB concerns.

Response: This rule implements SBA's final rule at 85 FR 27650, issued on May 11, 2020, implementing section 825(a)(1) of the NDAA for FY 2015, which amended 15 U.S.C. 637(m). In its final rule, SBA amended 13 CFR part 127 to require WOSB and EDWOSB concerns to be certified by SBA or an SBA-approved third-party certifier in accordance with 13 CFR 127.300. The statutory language mandates the methods for certification; therefore, SBA has no authority to retain representation as an option for concerns seeking to compete for WOSB and EDWOSB sole-source and set-aside procurements. The WOSB and EDWOSB certification requirement applies only to those businesses wishing to compete for set-aside or sole-source contracts under the WOSB Program (the Program). Other WOSB concerns that do not participate in the Program may continue to represent their status and receive contract awards outside the Program. This rule does not change existing documentation requirements for certification. WOSBs will submit the documentation to SBA through *certify.SBA.gov* or to SBA-approved third-party certifiers. In addition, a concern's status will appear in the System for Award Management (SAM); therefore, this rule will not delay award since contracting officers are already required to verify contractor information in SAM prior to award.

3. Clarifications

Comment: One respondent indicated that the Background section of the proposed rule incorrectly stated that WOSBs would be able to be certified by State governments and that this statement did not align with the FAR text of the proposed rule and SBA's final rule. The respondent indicated that SBA's final rule implementing section 825(a)(1) of the NDAA for FY 2015 does not authorize WOSB and EDWOSB concerns to be certified by a State government. The respondent indicated that the proposed rule FAR text accurately captures the program requirements as implemented by SBA.

Response: The Councils acknowledge the inaccuracy of the statement included in the background section of the proposed rule and clarify that WOSB and EDWOSB concerns are certified by SBA or a SBA-approved third-party certifier.

Comment: One respondent indicated that the proposed rule does not clearly indicate ''*when* the EDWOSB or WOSB concern must have been designated as a certified concern or have a pending application for certification in DSBS'' to be eligible for award.

Response: As a result of the comment received, the FAR text at 19.1505(d) has been revised to clarify when an offeror is eligible for consideration.

4. Outside the Scope of the Rule

Comment: One respondent indicated that the proposed rule's language at FAR 19.1503(c) differs from SBA's regulations regarding when a contracting officer must, or may, terminate a contract.

Response: This comment is outside the scope of the rule. SBA's regulations at 13 CFR 137.604(f) correspond to the FAR coverage at 19.308 on protests, not 19.1503, which addresses an entity's status as a WOSB or EDWOSB. The questioned phrase ''the contracting officer may terminate'' already appears at FAR 19.1503(e), and is only being renumbered as paragraph (c).

Comment: One respondent recommended that the North American Industry Classification System codes be revised to increase the dollar thresholds to allow WOSB concerns to qualify for large or high dollar value set-aside contracts.

Response: This comment is outside the scope of this rule.

Comment: Three respondents submitted comments outside the scope of the rule.

Response: These comments are outside the scope of this rule.

C. Other Changes

FAR 19.1503(b)(2), 19.1505(e), and 19.1505(f) have been changed to clarify the systems that reflect an EDWOSB and WOSB concern's certification status. Conforming changes have been made to the definition of Economically disadvantaged women-owned small business (EDWOSB) concern in FAR clause 52.212–3, Offeror Representations and Certifications—Commercial Products and Commercial Services.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items) or for Commercial Services

This rule amends the following provisions and clauses: provision 52.212–3, clause 52.212–5, provision 52.219–1, clause 52.219–28, clause 52.219–29, clause 52.219–30. While the provisions and clauses are being amended, this rule does not change the application to contracts at or below the SAT or for commercial products or for commercial services, including COTS items. The provisions and clauses continue to apply to acquisitions for

commercial products or for commercial services, including COTS items, and acquisitions at or below the SAT.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to acquisitions at or below the SAT. Section 1905 generally limits the applicability of new laws when agencies are making acquisitions at or below the SAT, but provides that such acquisitions will not be exempt from a provision of law under certain circumstances, including when the Federal Acquisition Regulatory Council (FAR Council) makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law. The FAR Council has made a determination to apply this statute to acquisitions at or below the SAT.

B. Applicability to Contracts for the Acquisition of Commercial Products and Commercial Services, Including Commercially Available Off-the-Shelf (COTS) Items

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products and commercial services, and is intended to limit the applicability of laws to contracts for the acquisition of commercial products and commercial services. Section 1906 provides that if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt commercial products or commercial services contracts and subcontracts, the provision of law will apply to contracts and subcontracts-for the acquisition of commercial products and commercial services.

41 U.S.C. 1907 states that acquisitions of COTS items will be exempt from certain provisions of law unless the Administrator for Federal Procurement Policy makes a written determination and finds that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items.

The FAR Council has made a determination to apply this statute to acquisitions for commercial products and commercial services. The Administrator for Federal Procurement Policy has made a determination to apply this statute to acquisitions for COTS items.

C. Determinations

This rule implements section 825(a)(1) of the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 and SBA's implementing regulation. Section 825 requires women-owned small business concerns and economically disadvantaged women-owned small business concerns to be certified to be eligible under the WOSB Program for set-aside or sole-source awards (see 13 CFR 127.300).

Section 825 is silent on the applicability of these requirements for acquisitions at or below the SAT and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1905 and its application to acquisitions at or below the SAT. Therefore, it does not apply to acquisitions at or below the SAT unless the FAR Council makes a written determination as provided at 41 U.S.C. 1905. Section 825(a)(1) is silent on applicability to acquisitions of commercial products and commercial services. The statute does not provide for civil or criminal penalties. Therefore, it does not apply to acquisitions of commercial products and commercial services unless the FAR Council makes a written determination as provided in 41 U.S.C. 1906. Additionally, the law is silent on the applicability of this requirement to acquisitions of COTS items and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1907 and its application to acquisitions of COTS items. Therefore, it does not apply to acquisition of COTS items unless the Administrator for Federal Procurement Policy makes a written determination as provided at 41 U.S.C. 1907.

Failure to apply section 825(a)(1) to acquisitions at or below the SAT, acquisitions of commercial products or commercial services, including COTS items, would prevent contracting officers from using WOSB set-asides or making sole-source awards to WOSB or EDWOSB concerns based on their socioeconomic status. This limitation would restrict opportunities for WOSB and EDWOSB concerns in the Federal marketplace which is contrary to the longstanding policy expressed in FAR 19.201 of promoting ''maximum practicable opportunities'' in Government contracting, as well as the Administration's express commitment reflected in Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal* Government, to advance equity for underserved communities.

Application of the law to acquisitions at or below the SAT and acquisitions of commercial products and commercial services, including COTS items, will maximize the positive impact set-aside and sole-source contracts provide for WOSB and EDWOSB concerns by increasing WOSB opportunities in the Federal marketplace.

The Federal Government has a policy of promoting WOSB and EDWOSB participation in Government contracting; therefore, applying the requirement to acquisitions at or below the SAT and acquisitions of commercial products and commercial services, including COTS items, will help Federal agencies achieve WOSB goals.

For these reasons, it is in the best interest of the Federal Government to apply the requirements of this rule to acquisitions at or below the SAT and to acquisitions of commercial products and commercial services and COTS items.

IV. Expected Impact of the Rule

As a result of this rule, contracting officers will be required to check SAM to determine if an EDWOSB or WOSB concern is certified or if the concern has a pending application for certification in DSBS, instead of checking that all required documentation has been submitted to the now defunct WOSB Repository. For EDWOSB or WOSB set-asides and sole-source awards, awards can only be made to an EDWOSB or WOSB certified concern. For EDWOSB or WOSB set-aside awards, if the apparently successful offeror's EDWOSB or WOSB certification is pending, the contracting officer will be required to notify SBA's Director/Government Contracting, and request SBA's status determination. Within 15 calendar days from the date of contracting officer notification, SBA will make a determination regarding the offeror's status as an EDWOSB or WOSB eligible under the WOSB program. If SBA does not provide the contracting officer with a determination within 15 days, the contracting officer may provide SBA additional time to make a determination, or may proceed with award to the next highest evaluated offeror.

The changes in this rule will affect contractor operations by requiring WOSB and EDWOSB concerns to be certified by SBA or a SBA-approved third-party certifier. However, the requirement to submit documentation (*i.e.,* articles of incorporation, bylaws, stock ledgers or certificates, tax records, etc.) to SBA through *certify.SBA.gov* or

to SBA approved third-party certifiers already exists and remains unchanged.

The public cost associated with obtaining the WOSB or EDWOSB certification from SBA or a third-party certifier is accounted for under the SBA final rule implementing the Program certification requirements (85 FR 27650). In addition, the SBA final rule advises concerns that only a certified WOSB or EDWOSB may seek a specific sole-source requirement under the Program and that only a certified WOSB or EDWOSB, or a concern that has a pending application for certification under the Program may submit an offer on a specific EDWOSB or WOSB set-aside requirement.

Given SBA's notice to small business concerns, the cost to the public associated with this rule is not a significant impact, and is limited to the cost of regulatory familiarization, or the cost associated with reading this rule and understanding the revised solicitation provision.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601–612. The FRFA is summarized as follows:

DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 825(a)(1) of the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Pub. L. 113–291) which amended 15 U.S.C. 637(m), and SBA's final rule at 85 FR 27650 issued on May 11, 2020, to require that women-owned small business (WOSBs) concerns and economically disadvantaged women-owned small business (EDWOSBs) concerns participating in the WOSB Program (the Program) be certified by SBA or by a SBA-approved third-party certifier. EDWOSB and WOSB concerns that are not certified will not be eligible for contracts under the Program. The certification requirement applies only to participants wishing to compete for set-aside or sole-source contracts under the Program. EDWOSB and WOSB concerns that do not participate in the Program may continue to represent their status, receive contract awards outside the Program, and the awards may count toward an agency's goal for awards to WOSBs.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

This rule will require EDWOSB and WOSB concerns to apply for certification through SBA or a SBA-approved third-party certifier and to be certified in order to be eligible for WOSB or EDWOSB set-aside or sole-source contracts under the Program. This rule is anticipated to impact 9,000–12,000 WOSB concerns. This estimate reflects the approximate number of WOSB concerns in the predecessor system SBA used to maintain WOSB certifications. The assumption is that the majority of those entities will seek certification from SBA or a third-party under the new certification process.

Data taken from the Federal Procurement Data System as of February 8, 2022, revealed that 8,599 set-aside or sole-source awards were made to WOSB and EDWOSB concerns from FY 2019 to FY 2021. Of the 8,599 awards made, 625 or approximately 7 percent, were WOSB and EDWOSB sole-source awards. This exemplifies the number of opportunities an offeror would potentially miss out on if they are not a certified EDWOSB or WOSB concern.

This final rule does not impose any new reporting, recordkeeping, or other compliance requirements for small entities.

The Small Business Administration currently collects information to carry out its statutory mandate to provide oversight of certification related to SBA's WOSB Federal Contract Program (OMB Control Number 3245–0374, Certification for the Women-Owned Small Business Federal Contract Program). Certified EDWOSB or WOSB concerns need to update their certification information with SBA once a year to maintain their status with the WOSB Federal Contract program.

There are no known significant alternative approaches to the final rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Parts 2, 19, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 19, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

■ 2. In section 2.101, in paragraph (b)(2), amend the definition of ''Women-Owned Small Business (WOSB) Program'' by:

■ a. In paragraph (1) introductory text, removing the phrase ''sole source'' and adding the phrase ''sole-source'' in its place;

■ b. In paragraph (2), removing the phrase ''13 CFR part 127'' and adding the phrase ''13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300'' in its place; and

■ c. In paragraph (3), removing the phrase ''(13 CFR part 127)'' and adding the phrase '', and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

■ 3. Amend section 19.308 by:

■ a. Removing from paragraph (d)(1)(ii) the phrase ''women, when'' and adding the phrase ''women who are United States citizens, when'' in its place;

■ b. Removing paragraph (d)(2);

■ c. Redesignating paragraph (d)(3) as (d)(2);

■ d. Removing from the newly designated paragraph (d)(2) the words

''not a'' and adding the words ''not an'' in its place;
■ e. Revising paragraph (f)(1);
■ f. Revising paragraphs (i)(3)(iii) and (i)(5)(iii);
■ g. Removing from paragraph (l)(2) the phrase ''409 Third Street SW, Washington, DC 20416, facsimile 202–205–6390'' and adding the phrase ''by email at *wosbprotest@sba.gov*'' in its place; and
■ h. Removing from paragraph (l)(4) the phrase ''facsimile 202–205–6873,''.

The revisions read as follows:

19.308 Protesting a firm's status as an economically disadvantaged women-owned small business concern or women-owned small business concern eligible under the Women-Owned Small Business Program.

* * * * *

(f)(1) The contracting officer shall forward all protests to SBA. The protests are to be submitted to SBA's Director for Government Contracting by email at *wosbprotest@sba.gov.*

* * * * *

(i) * * *

(3) * * *

(iii) SBA will remove the concern's designation in the Dynamic Small Business Search (DSBS) as an EDWOSB or WOSB concern eligible under the WOSB Program. The concern shall not submit an offer as an EDWOSB concern or WOSB concern eligible under the WOSB Program, until SBA issues a decision that the ineligibility is resolved.

* * * * *

(5) * * *

(iii) SBA will remove the concern's designation in DSBS as an EDWOSB or WOSB concern eligible under the WOSB Program. The concern shall not submit an offer as an EDWOSB concern or WOSB concern eligible under the WOSB Program, until SBA issues a decision that the ineligibility is resolved or OHA finds the concern is eligible on appeal.

* * * * *

19.502–8 [Amended]

■ 4. Amend section 19.502–8 in paragraph (b) by removing ''19.1505(g)'' and adding ''19.1505(i)'' in its place.

■ 5. Amend section 19.1500 by revising paragraph (c) to read as follows:

19.1500 General.

* * * * *

(c) An economically disadvantaged women-owned small business (EDWOSB) concern and a WOSB concern eligible under the WOSB Program are subcategories of ''women-owned small business concern'' as defined in section 2.101.

19.1501 [Removed and Reserved]

■ 6. Remove and reserve section 19.1501.

■ 7. Revise section 19.1503 to read as follows:

19.1503 Status.

(a) Status as an EDWOSB concern or WOSB concern eligible under the WOSB Program is determined by the Small Business Administration in accordance with 13 CFR part 127.

(b) For a WOSB that seeks a WOSB or EDWOSB set-aside or sole-source contract, the contracting officer shall verify that the offeror—

(1) Is registered in the System for Award Management (SAM); and

(2) Is designated as a certified EDWOSB or WOSB concern in SAM (see 19.1505(d) for set aside procedures). Pending applications for certification are only in the Dynamic Small Business Search (DSBS) at *https://web.sba.gov/pro-net/search/dsp_dsbs.cfm.*

(c) If there is a decision issued by SBA as a result of a current eligibility examination finding that the concern did not qualify as an EDWOSB concern or WOSB concern eligible under the WOSB Program, the contracting officer may terminate the contract, and shall not exercise any option, or award further task or delivery orders. Agencies shall not count or include the award toward the small business goals for an EDWOSB concern or WOSB concern eligible under the WOSB Program and must update FPDS from the date of award to reflect the final SBA decision.

(d) A joint venture may be considered an EDWOSB concern or WOSB concern eligible under the WOSB Program if the EDWOSB or WOSB participant is certified in SAM (see section 19.1505(d) for set-aside procedures) and the joint venture meets the requirements of 13 CFR 127.506.

■ 8. Amend section 19.1504 by revising paragraph (b) to read as follows:

19.1504 Exclusions.

* * * * *

(b) Requirements that can be satisfied through award to mandatory Government sources (see section 8.002);

* * * * *

■ 9. Amend section 19.1505 by:
■ a. Revising paragraph (a)(2);
■ b. Redesignating paragraphs (f) and (g) as paragraphs (h) and (i);
■ c. Redesignating paragraph (d) as paragraph (g);
■ d. Removing paragraph (e);
■ e. Adding new paragraphs (d) through (f); and
■ f. Revising newly redesignated paragraphs (i) introductory text and (i)(1).

The revisions and addition read as follows:

19.1505 Set-aside procedures.

(a) * * *

(2)(i) May set aside acquisitions exceeding the micro-purchase threshold for competition restricted to EDWOSB concerns when the acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are underrepresented in Federal procurement; or

(ii) May set aside acquisitions exceeding the micro-purchase threshold for competition restricted to WOSB concerns eligible under the WOSB Program when the acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement, as specified on SBA's website at *http://www.sba.gov/WOSB.*

* * * * *

(d) An EDWOSB or WOSB concern may submit an offer under an EDWOSB or WOSB set-aside when the offeror—

(1) Qualifies as a small business concern under the size standard corresponding to the NAICS code assigned to the contract; and

(2)(i) For an EDWOSB set-aside, is certified pursuant to 13 CFR 127.300 as an EDWOSB or has a pending application for EDWOSB certification in the DSBS (see 13 CFR 127.504(a)); or

(ii) For a WOSB set-aside, is certified pursuant to 13 CFR 127.300 as an EDWOSB or WOSB, or has a pending application for EDWOSB or WOSB certification in the DSBS (see 13 CFR 127.504(a)).

(e) The contracting officer shall verify that offers received are eligible for consideration for award by checking SAM to see if the EDWOSB or WOSB concern is designated as a certified concern or checking DSBS for a pending application for certification.

(1) If the offeror is designated as certified in SAM or has a pending application for certification in DSBS, proceed with the offer evaluation.

(2) Unless the offeror is designated as certified in SAM or has a pending application for certification in DSBS, the offer is not eligible for award and shall be removed from consideration.

(f) Prior to award, the contracting officer shall verify the apparently successful offeror is certified in SAM, or has a pending application for certification in DSBS. If the apparently successful offeror's EDWOSB or WOSB certification is pending in DSBS, the

contracting officer shall notify SBA's Director/Government Contracting by email at *WOSBpendingcertification@sba.gov,* and request SBA's status determination. The contracting officer shall provide SBA with the offeror's name, unique entity identifier, type of set-aside, NAICS code, and solicitation number.

(1) Within 15 calendar days from the date of the contracting officer's notification, SBA will make a determination regarding the offeror's status as an EDWOSB or WOSB eligible under the WOSB program.

(2) If the contracting officer does not receive a determination from SBA within 15 calendar days, the contracting officer at their discretion, may provide SBA additional time to make a determination, or may proceed with award to the next highest evaluated offeror.

(3) The contracting officer shall not make award to an offeror who is not a certified EDWOSB or WOSB concern eligible under the WOSB program.

* * * * *

(i) The SBA procurement center representative (PCR) may recommend use of the WOSB Program. If the contracting officer rejects a recommendation by SBA's PCR—

(1) The contracting officer shall notify the PCR as soon as practicable;

* * * * *

■ 10. Amend section 19.1506 by:

■ a. Revising the section heading;

■ b. In paragraphs (a) introductory text and (b) introductory text removing the phrase ''sole source'' and adding the phrase ''sole-source'' in its place;

■ c. Redesignating paragraph (d) as paragraph (e);

■ d. Adding a new paragraph (d); and

■ e. In newly redesignated paragraph (e), removing the phrase ''sole source'' and adding the phrase ''sole-source'' in its place.

The revision and addition read as follows:

19.1506 Women-Owned Small Business Program sole-source awards.

* * * * *

(d) A contracting officer shall only award a sole-source contract to a concern that has been certified pursuant to 13 CFR 127.300 as an EDWOSB or WOSB eligible under the WOSB program. Contracting officers shall not request a status determination from SBA on pending applications for certification for EDWOSB or WOSB sole-source awards.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 11. Amend section 52.212–3 by:

■ a. Revising the date of the provision;

■ b. In paragraph (a):

■ i. In the definition ''Economically disadvantaged women-owned small business (EDWOSB) concern'' removing the phrase ''13 CFR part 127'' and adding the phrase ''13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300'' in its place;

■ ii. Revise the definition ''Women-owned small business (WOSB) concern eligible under the WOSB Program''; and

■ c. Revising paragraphs (c)(6) and (7);

The revisions read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Products and Commercial Services.

* * * * *

Offeror Representations and Certifications—Commercial Products and Commercial Services (Oct 2022)

* * * * *

(a) * * *

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

* * * * *

(c) * * *

(6) *WOSB joint venture eligible under the WOSB Program.* The offeror represents that it ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:*____.]

(7) *Economically disadvantaged women-owned small business (EDWOSB) joint venture.* The offeror represents that it ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:*____.]

* * * * *

■ 12. Amend section 52.212–5 by:

■ a. Revising the date of the clause;

■ b. In paragraph (b)(23), removing the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place; and

■ c. In paragraph (b)(24), removing the date ''(SEP 2021)'' and adding the date ''(OCT 2022)'' in its place.

The revision reads as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (OCT 2022)

* * * * *

■ 13. Amend section 52.219–1 by:

■ a. Revising the date of the provision;

■ b. In paragraph (a), revising the definitions ''Economically disadvantaged women-owned small business (EDWOSB) concern'' and ''Women-owned small business (WOSB) concern eligible under the WOSB Program''; and

■ c. Revising paragraphs (c)(4) and (5).

The revisions read as follows:

52.219–1 Small Business Program Representations.

* * * * *

Small Business Program Representations (Oct 2022)

(a) * * *

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

* * * * *

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127) means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

* * * * *

(c) * * *

(4) *Women-owned small business (WOSB) joint venture eligible under the WOSB Program.* The offeror represents as part of its offer that it ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture:* ____.]

(5) *Economically disadvantaged women-owned small business (EDWOSB) joint venture.* The offeror represents as part of its offer that it ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR

127.506(a) through (c). [*The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.*]

* * * * *

■ 14. Amend section 52.219–28 by revising the date of the clause and paragraphs (h)(4) and (5) to read as follows:

52.219–28 Post-Award Small Business Program Rerepresentation.

* * * * *

Post-Award Small Business Program Rerepresentation (Oct 2022)

* * * * *

(h) * * *

(4) Women-owned small business (WOSB) joint venture eligible under the WOSB Program. The Contractor represents that it □ is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The Contractor shall enter the name and unique entity identifier of each party to the joint venture:____ .*]

(5) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The Contractor represents that it □ is, □ is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The Contractor shall enter the name and unique entity identifier of each party to the joint venture:____ .*]

* * * * *

■ 15. Amend section 52.219–29 by revising the date of the clause, paragraphs (a) and (c), and the paragraph (d) subject heading to read as follows:

52.219–29 Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns.

* * * * *

Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Oct 2022)

(a) *Definition. Economically disadvantaged women-owned small business (EDWOSB) concern,* as used in this clause, means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and is certified pursuant to 13 CFR 127.300 as an EDWOSB. It automatically qualifies as a women-owned small business (WOSB) concern eligible under the WOSB Program.

* * * * *

(c) *General.* (1) For EDWOSB set-aside procurements, offers are solicited only from certified EDWOSB concerns or EDWOSB concerns with a pending application for certification in the Dynamic Small Business Search (DSBS).

(2) For EDWOSB sole-source awards, offers are solicited only from certified EDWOSB concerns.

(3) Offers received from other concerns will not be considered.

(4) Any award resulting from this solicitation will be made to a certified EDWOSB concern.

(d) *Joint venture.** * *

* * * * *

■ 16. Amend section 52.219–30 by revising the date of the clause, paragraphs (a) and (c), and the paragraph (d) subject heading to read as follows:

52.219–30 Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program.

* * * * *

Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Oct 2022)

(a) *Definition. Women-owned small business (WOSB) concern eligible under the WOSB Program* (in accordance with 13 CFR part 127), as used in this clause, means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300 as a WOSB. A certified EDWOSB is automatically eligible as a certified WOSB.

* * * * *

(c) *General.* (1) For WOSB set-aside procurements, offers are solicited only from certified WOSB concerns eligible under the WOSB Program or WOSB concerns with a pending application for certification status in the Dynamic Small Business Search (DSBS).

(2) For WOSB sole-source awards, offers are solicited only from certified WOSB concerns.

(3) Offers received from other concerns shall not be considered.

(4) Any award resulting from this solicitation will be made to a certified WOSB concern eligible under the WOSB Program.

(d) *Joint venture.* * * *

* * * * *

[FR Doc. 2022–20343 Filed 9–22–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 19

[FAC 2022–08; Item V; Docket No. FAR–2022–0052; Sequence No. 3]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to address an internal administrative action.

DATES: Effective September 23, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–08, Technical Amendments.

SUPPLEMENTARY INFORMATION: This document makes administrative changes to 48 CFR parts 4 and 19. The date change is to provide additional time to implement the policy addressing the assignment of North American Industry Classification System codes to orders placed under multiple award contracts, as covered by changes made by FAR Case 2014–002 Set-Asides Under Multiple Award Contracts, 85 FR 11746.

List of Subjects in 48 CFR Parts 4 and 19

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4 and 19 as set forth below:

■ 1. The authority citation for 48 CFR parts 4 and 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

4.1202 [Amended]

■ 2. Amend section 4.1202 by removing from paragraph (a) introductory text the date ''October 1, 2022'' and adding the date ''October 1, 2025'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.102 [Amended]

■ 3. Amend section 19.102 by removing from paragraphs (b)(2)(i) and (b)(2)(ii) introductory text the date ''October 1, 2022'' and adding the date ''October 1, 2025'' in their places, respectively.

19.309 [Amended]

■ 4. Amend section 19.309 by removing from paragraphs (a)(3) and (c)(2) the date ''October 1, 2022'' and adding the date ''October 1, 2025'' in their places, respectively.

[FR Doc. 2022–20345 Filed 9–22–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2022–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2022–08; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide (SECG).

SUMMARY: This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2022–08, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2022–08, which precedes this document.

DATES: September 23, 2022.

ADDRESSES: The FAC, including the SECG, is available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2022–08 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

RULES LISTED IN FAC 2022–08

Item	Subject	FAR case	Analyst
*I	Policy on Joint Ventures	2017–019	Jones.
*II	Construction Contract Administration	2018–020	Bowman.
*III	Update of Historically Underutilized Business Zone Program	2019–007	Jones.
*IV	Certification of Women-Owned Small Business	2020–013	Jones.
V	Technical Amendments.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2022–08 amends the FAR as follows:

Item I—Policy on Joint Ventures (FAR Case 2017–019)

This final rule amends the Federal Acquisition Regulation (FAR) to align with the Small Business Administration (SBA) regulations regarding mentor-protégé joint ventures and to provide clarification regarding joint ventures under the 8(a) Program. The changes will allow mentor-protégé joint ventures to qualify as small businesses, or to qualify under a socioeconomic program for the purposes of participation in procurements under FAR part 19. In addition, this rule provides consistent guidance to contracting officers on how to handle joint ventures under the 8(a) Program and the small business socioeconomic programs.

Item II—Construction Contract Administration (FAR Case 2018–020)

This final rule amends the FAR to implement section 855 of the of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115—232), codified at 15 U.S.C. 644(w) in the Small Business Act. Section 855 requires Federal agencies to provide a notice, along with solicitations for construction contracts anticipated to be awarded to small businesses, to prospective offerors that includes information about the agency's policies or practices in complying with FAR requirements related to the timely definitization of requests for equitable adjustment on construction contracts. The notice must include data regarding the time it took the agency to definitize requests for equitable adjustment on construction contracts for the three-year period preceding the issuance of the notice.

The final FAR rule requires contracting officers to transmit in the solicitation notice on the Governmentwide point of entry information in construction solicitations anticipated to be awarded to a small business pursuant to part 19, that includes a description of agency-specific policies or procedures regarding definitization of equitable adjustments for change orders under construction contracts. Additionally, agencies are required to include past performance data in the solicitation notice, for the three fiscal years preceding the issuance of the solicitation notice, regarding the time required to definitize equitable adjustments for change orders under construction contracts using the table format provided in the FAR text, or provide the address of an agency-specific, publicly accessible website containing this information. The final rule also describes an adequate change order definitization proposal as containing sufficient information to enable the contracting officer to conduct meaningful analyses and audits of the information contained in the proposal.

Item III—Update of Historically Underutilized Business Zone Program (FAR Case 2019–007)

This final rule amends the FAR to implement changes to the SBA regulations for the Historically

Underutilized Business Zone (HUBZone) Program. This rule specifies that SBA now certifies HUBZone small business concerns and HUBZone entities are no longer required to represent their HUBZone status with each offer. In addition, contracting officers may now award HUBZone set-aside and sole-source contracts at or below the simplified acquisition threshold. This rule also makes minor changes to the HUBZone protest procedures.

Item IV—Certification of Women-Owned Small Businesses (FAR Case 2020–013)

This final rule amends the FAR to align with SBA's regulations regarding certification of economically disadvantaged women-owned small business (EDWOSB) concerns and women-owned small business (WOSB) concerns. This rule requires EDWOSBs and WOSBs participating in the Women-Owned Small Business Program (the Program) to apply for certification through SBA or a SBA-approved third-party certifier to be eligible for WOSB or EDWOSB set-aside or sole-source contracts. EDWOSB and WOSB concerns that are not certified will not be eligible for set-aside and sole-source contracts under the Program. WOSBs that do not participate in the Program may continue to represent their status, be awarded contracts outside the Program, and these contracts will continue to count toward an agency's goal for awards to WOSBs.

Item V—Technical Amendments

Administrative changes are made at FAR 4.1202, 19.102, and 19.309. The date change is to provide additional time to implement the policy addressing the assignment of North American Industry Classification System codes to orders placed under multiple award contracts, as covered by changes made by FAR case 2014–002, Set-Asides Under Multiple Award Contracts.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2022–20346 Filed 9–22–22; 8:45 am]

BILLING CODE 6820–EP–P

FEDERAL REGISTER

Vol. 87 Friday,
No. 184 September 23, 2022

Part IV

The President

Federal Register
Vol. 87, No. 184
Friday, September 23, 2022

Presidential Documents

Title 3—

The President

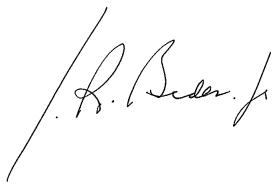
Memorandum of September 15, 2022

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

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $600 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

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



THE WHITE HOUSE,
Washington, September 15, 2022

[FR Doc. 2022–20849
Filed 9–22–22; 11:15 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2022–23 of September 15, 2022

Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2023

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), I hereby identify the following countries as major drug transit or major illicit drug producing countries: Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela.

A country's presence on the foregoing list is neither a reflection of its government's counterdrug efforts nor level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or major illicit drug producing country set forth in sections 481(e)(2) and 481(e)(5) of the Foreign Assistance Act of 1961, as amended (Public Law 87–195) (FAA), the reason countries are placed on the list is the combination of geographic, commercial, and economic factors that allow drugs to be transited or produced, even if a government has engaged in robust and diligent narcotics control and law enforcement measures.

Pursuant to section 706(2)(A) of the FRAA, I hereby designate Afghanistan, Bolivia, Burma, and Venezuela as having failed demonstrably to make substantial efforts during the previous 12 months to both adhere to their obligations under international counternarcotics agreements and to take the measures required by section 489(a)(1) of the FAA. Included with this determination are justifications for the designations of Afghanistan, Bolivia, Burma, and Venezuela, as required by section 706(2)(B) of the FRAA. I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that United States programs that support Afghanistan, Bolivia, Burma, and Venezuela are vital to the national interests of the United States.

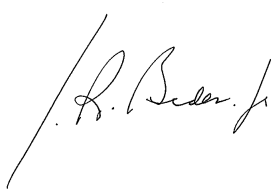
Addressing the ongoing and increasingly staggering toll of the drug addiction and overdose epidemic in the United States, which tragically claimed nearly 108,000 lives in 2021, remains one of the foremost public health priorities of my Administration. Through our 2022 National Drug Control Strategy, my Administration will focus on critical drivers of the epidemic, including untreated addiction and drug trafficking, and will redouble efforts to strengthen foreign partnerships to address drug production and trafficking, particularly to tackle the shared challenge of synthetic drugs.

My Administration's Fiscal Year 2023 Budget request calls for $24.3 billion to support evidence-based prevention and treatment, including harm reduction and recovery support services, with targeted investments to meet the needs of populations at greatest risk for overdose and substance use disorder. The Budget request also includes significant investments to reduce the supply of illicit drugs originating from beyond our borders.

The United States is committed to working together with the countries of the Western Hemisphere as neighbors and partners to meet our shared challenges of drug production, trafficking, and use, and to counter the deleterious impact of narcotics-related corruption. My Administration is expanding

cooperation globally to bolster efforts to address the production and trafficking of dangerous synthetic drugs that are responsible for so many of our overdose deaths, particularly fentanyl, its analogues, and methamphetamine. We will look to expand cooperation with China, India, and other chemical source countries to disrupt the global flow of synthetic drugs and their precursor chemicals. Under the U.S.-Mexico Bicentennial Framework for Security, Public Health, and Safe Communities, we support and encourage Mexican efforts to target clandestine drug laboratories, chemists, and companies involved in chemical diversion; to enact stronger chemical control and accountability frameworks; to increase interdiction of precursor chemicals and finished synthetic drugs in transit; and to arrest key organized crime figures involved in the synthesis and trafficking of fentanyl and methamphetamine and the laundering of drug proceeds. The United States is encouraged by Afghanistan's ban on opium poppy cultivation, production, and trafficking, and will monitor the implementation of this ban. The United States is also encouraged by Bolivia's counternarcotics efforts over the past year, including increased cooperation with international partners. I encourage Bolivia's government to take additional steps to safeguard the country's licit coca markets from criminal exploitation, to reduce illicit coca cultivation that continues to exceed legal limits under Bolivia's domestic laws for medicinal and traditional use, and to continue international collaboration to disrupt drug traffickers. In addition, while the foregoing list is focused by law on drug trafficking and the production of plant-based drugs and synthetic opioids that significantly affects the United States, addressing the global proliferation of other dangerous synthetic drugs remains a key drug control priority of my Administration.

You are authorized and directed to submit this designation, with the Afghanistan, Bolivia, Burma, and Venezuela memoranda of justification, under section 706 of the FRAA, to the Congress, and to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, September 15, 2022

[FR Doc. 2022–20851
Filed 9–22–22; 11:15 am]
Billing code 4710–10–P

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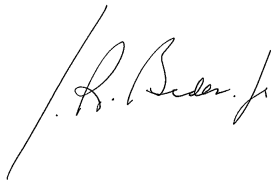
Memorandum of September 16, 2022

Delegation of Authority Under Section 610 of the Foreign Assistance Act of 1961, as Amended

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961, as amended (FAA), I hereby delegate to the Secretary of State the authority under section 610 of the FAA to make the determination necessary for and to execute the transfer of up to $130 million of Fiscal Year 2020 Foreign Military Financing funds to, and in consolidation with, the Economic Support Fund account in order to provide assistance for international energy and climate security objectives ($90 million) and for assistance for the Pacific Islands ($40 million).

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



THE WHITE HOUSE,
Washington, September 16, 2022

[FR Doc. 2022–20852
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