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Contents

Federal Register

Vol. 87, No. 215

Tuesday, November 8, 2022

Agency for Healthcare Research and Quality
NOTICES
Supplemental Evidence and Data Request:
Respectful Maternity Care: Dissemination and Implementation of Perinatal Safety Culture To Improve Equitable Maternal Healthcare Delivery and Outcomes, 67478–67480

Agriculture Department
See Forest Service
See National Agricultural Library
See National Agricultural Statistics Service

Antitrust Division
NOTICES
Changes Under the National Cooperative Research and Production Act:
America's Datahub Consortium, 67491
ASTM International Standards, 67489
Bytecode Alliance Foundation, 67489–67490
Consortium for Execution of Rendezvous and Servicing Operations, 67491
Gap Year Association, 67490
Information Warfare Research Project Consortium, 67493
Integrated Photonics Institute for Manufacturing Innovation Operating Under the Name of the American Institute for Manufacturing Integrated Photonics, 67495
Maritime Sustainment Technology and Innovation Consortium, 67492
Medical CBRN Defense Consortium, 67490
Medical Technology Enterprise Consortium, 67494
MLCommons Association, 67494
National Shipbuilding Research Program, 67492
National Spectrum Consortium, 67494–67495
ODVA, Inc., 67490
OpenJS Foundation, 67495
PXI Systems Alliance, Inc., 67490–67491
Rust Foundation, 67491–67492
Southwest Research Institute: Cooperative Research Group on Consortium for NASGRO Development and Support, 67492
The Institute of Electrical and Electronics Engineers, Inc., 67493–67495
The National Advanced Mobility Consortium, Inc., 67488–67489
Undersea Technology Innovation Consortium, 67493
Utility Broadband Alliance, Inc., 67488

Centers for Disease Control and Prevention
NOTICES
Meetings, 67480–67481

Coast Guard
PROPOSED RULES
Safety Zones:
Fireworks Display, Columbia River, Richland, WA, 67433–67435
Potomac River, Between Charles County, MD and King George County, VA, 67430–67433

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 67457

Drug Enforcement Administration
NOTICES
Decision and Order:
George M. Douglass, M.D., 67497–67499
Gerald M. Baltz, N.P., 67499–67500
Nicky Shah, MD, 67496–67497
Importer, Manufacturer or Bulk Manufacturer of Controlled Substances; Application, Registration, etc.:
Chattem Chemicals, Inc.; Correction, 67499

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Evaluation of Transition Supports for Youth With Disabilities, 67458
Upward Bound Upward Bound Math Science Annual Performance Report, 67457–67458

Employment and Training Administration
NOTICES
Federal-State Unemployment Compensation Program:
Certifications for 2022 Under the Federal Unemployment Tax Act, 67501–67502

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
International Energy Agency, 67461–67462
Request for Information:
Accelerating Innovations in Emerging Technologies, 67459–67461
Establishment of a Program To Use the Defense Production Act, 67459

Environmental Protection Agency
RULES
Pesticide Tolerance; Exemptions, Petitions, Revocations, etc.:
Addition of Chitosan (Including Chitosan Salts) to the List of Active Ingredients Permitted in Exempted Minimum Risk Pesticide Products, 67364–67371
Pesticide Tolerances:
Acetic Acid, 2-Ethylhexyl Ester; Exemption, 67371–67375
Nitric Acid; Exemption, 67375–67379

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus SAS Airplanes, 67351–67354, 67359–67363
De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes, 67354–67359

PROPOSED RULES
Airworthiness Criteria:
Special Class for the Joby Aero, Inc. Model JAS4–1 Powered-Lift, 67399–67413

Federal Communications Commission
NOTICES
Meetings:
Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States, 67477–67478

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67471–67472
Application:
Brainerd Public Utilities, 67476–67477
Eagle Creek Racine Hydro, LLC, 67473–67474
Ketchikan Public Utilities, 67468–67469
Nature and People First Arizona PHS, LLS, 67467
Petersburg Municipal Power and Light, 67467–67468
Authorization for Continued Project Operation:
Mad River Power Associates, 67464
Washington Electric Cooperative, Inc., 67470–67471
Combined Filings, 67462–67467, 67474–67476
Effectiveness of Exempt Wholesale Generator Status:
Kawailoa Solar, LLC, Sunflower Energy Center, LLC, et al., 67464
Environmental Assessments; Availability, etc.:
Topsham Hydro Partners, LP, 67469–67470
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Arroyo Energy Storage, LLC, 67474
Arroyo Solar, LLC, 67470
Concurrent, LLC, 67476
Meetings:
East Tennessee Natural Gas, LLC; Planned System Alignment Program Project, 67472–67473

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 67478

Federal Trade Commission
PROPOSED RULES
Trade Regulation Rule on the Use of Reviews and Endorsements, 67424–67430
Unfair or Deceptive Fees Trade Regulation Rule, 67413–67424

Fish and Wildlife Service
RULES
Endangered and Threatened Species:
Sickle Darter, 67380–67396

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Tongass National Forest; Alaska; Mendenhall Glacier Visitor Facility Improvements Project, 67436–67437
Meetings:
Southwest Idaho Resource Advisory Committee, 67437–67438
Proposed New Fee Sites, 67436

Geological Survey
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Nonindigenous Aquatic Species Sighting Report Form and Alert Registration Form, 67483–67484

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Maternal, Infant, and Early Childhood Home Visiting Program Home Visiting Budget Assistance Tool, 67481–67482

Homeland Security Department
See Coast Guard

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Multifamily Default Status Report, 67482–67483

Indian Affairs Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts, 67484–67485
Requests for Nominations:
Bureau of Indian Education Advisory Board for Exceptional Children, 67485–67486

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Indian Affairs Bureau
See National Indian Gaming Commission
See National Park Service

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67533–67534
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Disclosure Statement and Regulation Disclosure Statement, 67534–67535

International Trade Administration
NOTICES
Amended Trade Mission Date and Application Deadline to the Clinical Waste Management Mission to Indonesia and Malaysia, 67441
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Paper File Folders From India, 67447–67451
Paper File Folders From the People's Republic of China, India, and the Socialist Republic of Vietnam, 67441–67447

International Trade Commission
NOTICES
Meetings; Sunshine Act, 67487

Justice Department
See Antitrust Division
See Drug Enforcement Administration
NOTICES
Proposed Interim Partial Consent Decree:
Clean Water Act, 67500–67501

Labor Department
See Employment and Training Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Coal Mine Dust Sampling Devices, 67502

Legal Services Corporation
NOTICES
Funding Availability:
Grant Awards for the Delivery of Civil Legal Services to Eligible Low-Income Clients, 67502–67505

National Agricultural Library
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67439–67440

National Agricultural Statistics Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67440
Requests for Nominations:
Advisory Committee on Agriculture Statistics, 67438–67439

National Indian Gaming Commission
RULES
Audit Standards:
Correction, 67363–67364
PROPOSED RULES
Audit Standards:
Correction, 67430

National Institutes of Health
NOTICES
Meetings:
National Institute on Drug Abuse, 67482

National Oceanic and Atmospheric Administration
NOTICES
Application:
Marine Mammals; File No. 27033, 67451
Endangered and Threatened Species:
Petition To List Great Hammerhead Shark, 67451–67457

National Park Service
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 67486–67487

Nuclear Regulatory Commission
PROPOSED RULES
Advance Tribal Notification of Certain Radioactive Material Shipments, 67397–67399
NOTICES
Licenses; Exemptions, Applications, Amendments etc.:
Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations, etc. and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information, 67506–67510
Susquehanna Steam Electric Station, Units 1 and 2 and Associated Independent Spent Fuel Storage Installation; Consideration of Approval of Indirect Transfer of Licenses and Conforming Amendments, 67511–67513

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67523–67524
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 67524–67527
Cboe EDGX Exchange, Inc., 67520–67523
Fixed Income Clearing Corp., 67516–67519
Nasdaq BX, Inc., 67514–67516
NYSE Arca, Inc., 67513–67514
The Depository Trust Co., 67527–67531

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67531–67532

Surface Transportation Board
NOTICES
Exemption:
Abandonment; Flats Industrial, Inc. d/b/a Flats Industrial Railroad Co., Cleveland, OH, 67532–67533
Release of Waybill Data, 67533

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 67533

Transportation Department
See Federal Aviation Administration

Treasury Department
See Internal Revenue Service

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Alternate Signer Certification, 67538
Claim for Compensation and/or Pension, or Survivors Pension and/or Dependency and Indemnity Compensation, 67535
Legal Services for Homeless Veterans and Veterans At-Risk for Homelessness Grant Program, 67538–67539
Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program, 67536–67538
Meetings:
Advisory Committee on Former Prisoners of War, 67535–67536

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

10 CFR
Proposed Rules:
37 67397

14 CFR
39 (4 documents) 67351, 67354, 67359, 67361
Proposed Rules:
21 67399

16 CFR
Proposed Rules:
464 67413
465 67424

25 CFR
571 67363
Proposed Rules:
571 67430

33 CFR
Proposed Rules:
165 (2 documents) 67430, 67433

40 CFR
152 67364
180 (2 documents) 67371, 67375

50 CFR
17 67380

Rules and Regulations

Federal Register

Vol. 87, No. 215

Tuesday, November 8, 2022

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1247; Project Identifier MCAI–2021–01066–T; Amendment 39–22200; AD 2022–21–01]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–06–07, which applied to certain Airbus SAS Model A330–200 series and A330–300 series airplanes. AD 2021–06–07 required repetitive detailed inspections of the courier area oxygen system (CAOS) and replacement of affected parts if necessary. Since the FAA issued AD 2021–06–07, improved flexible oxygen hoses have been developed. This AD continues to require repetitive detailed inspections of the CAOS and replacement of affected parts if necessary. This AD also requires replacing each affected part with an improved serviceable part, which is terminating action for the repetitive inspections. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 23, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 23, 2022.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of April 20, 2021 (86 FR 17512, April 5, 2021).

The FAA must receive comments on this AD by December 23, 2022.

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

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

For service information identified in this final rule, contact Elbe Flugzeugwerke GmbH Customer Support, Grenzstraße 1, 01109 Dresden, Germany; phone: +49 351 8839 2749; fax: +49 351 8839 2125; email: *efw.techpub@efw.aero;* website: *elbeflugzeugwerke.com/en/.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1247.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1247; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI) any comments received, and other information. The street address for the Docket Operations office is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued AD 2021–06–07, Amendment 39–21474 (86 FR 17512, April 5, 2021) (AD 2021–06–07), for certain Airbus SAS Model A330–200 series and A330–300 series airplanes. AD 2021–06–07 was prompted by reports of cracked flexible hoses in the CAOS. AD 2021–06–07 required repetitive detailed inspections of the CAOS and replacement of affected parts if necessary. The FAA issued AD 2021–06–07 to address cracked CAOS hoses. This condition, if not addressed, could lead to oxygen leakage in the flexible hoses of the CAOS, which, in combination with in-flight depressurization or smoke evacuation procedure, could result in injury to occupants of the courier area.

Actions Since AD 2021–06–07 Was Issued

Since the FAA issued AD 2021–06–07, improved flexible oxygen hoses have been developed and EASA and the FAA have determined that replacement of each affected part with a new flexible oxygen hose is necessary to address the unsafe condition.

European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0173, dated July 21, 2021 (EASA AD 2021–0173) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A330–243, A330–322, and A330–343 airplanes. You may examine the MCAI in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1247.

This AD was prompted by reports of cracked flexible hoses in the CAOS, and the development of, and the development of improved flexible oxygen hoses. The FAA is issuing this AD to address cracked CAOS hoses. This condition, if not addressed, could lead to oxygen leakage in the flexible hoses of the CAOS, which, in combination with in-flight depressurization or smoke evacuation procedure, could result in injury to occupants of the courier area. See the MCAI for additional background information.

Change to the Applicability of AD 2021–06–07

The applicability of AD 2021–06–07 is Airbus SAS Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes that were converted to freighter airplanes in accordance with FAA supplemental type certificate (STC) ST04038NY and STC ST04045NY. However, the applicability of this AD is limited to Model A330–243, –322, and –343 airplanes having manufacturer serial numbers 0116, 0127, 0231, 0600, 0610, 0709, 0777, and 0781. Due to a design change introduced during passenger-to-freighter conversion, airplanes converted in the future will not be affected by the identified unsafe condition.

Related Service Information Under 1 CFR Part 51

Elbe Flugzeugwerke GmbH (EFW) has issued Service Bulletin EFW–SB–35–0001, Revision 01, dated July 3, 2020; and Service Bulletin EFW–SB–35–0002, Revision 01, dated June 22, 2020. This service information describes procedures for repetitive detailed inspections (including functional tests) of the CAOS to detect any leakage or damage (cracking) in the 32209-series oxygen distribution hoses installed in the courier area and in lavatory A, and replacement.

EFW has also issued Service Bulletin EFW–SB–35–0003, dated January 27, 2021; and Service Bulletin EFW–SB–35–0006, dated June 9, 2021. This service information describes procedures for modifying the CAOS by replacing the 32209-series oxygen distribution hoses with improved flexible oxygen hoses.

This AD would also require Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0001, dated March 8, 2019; and Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0002, dated September 2, 2019, which the Director of the Federal Register approved for incorporation by reference as of April 20, 2021 (86 FR 17512, April 5, 2021).

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

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this AD because the FAA evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in the service information described previously.

FAA's Justification and Determination of the Effective Date

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the forgoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1247; Project Identifier MCAI–2021–01066–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@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.

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product
Retained actions from AD 2021–06–07	20 work-hours × $85 per hour = $1,700	$0	$1,700
New actions	7 work-hours × $85 per hour = $595	13,485	14,080

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
7 work-hours × $85 per hour = $595	$13,485	$14,080

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2021–06–07, Amendment 39–21474 (86 FR 17512, April 5, 2021); and

■ b. Adding the following new AD:

2022–21–01 Airbus SAS: Amendment 39–22200; Docket No. FAA–2022–1247; Project Identifier MCAI–2021–01066–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2022.

(b) Affected ADs

This AD replaces AD 2021–06–07, Amendment 39–21474 (86 FR 17512, April 5, 2021) (AD 2021–06–07).

(c) Applicability

This AD applies to Airbus SAS Model A330–243, –322, and –343 airplanes, certificated in any category, converted to freighter airplanes in accordance with FAA supplemental type certificate (STC) ST04038NY and STC ST04045NY, having manufacturer serial numbers 0116, 0127, 0231, 0600, 0610, 0709, 0777, and 0781.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by reports of cracked flexible hoses in the courier area oxygen system (CAOS), and the development of improved flexible oxygen hoses. The FAA is issuing this AD to address cracked CAOS hoses. This condition, if not addressed, could lead to oxygen leakage in the flexible hoses of the CAOS, which, in combination with in-flight depressurization or smoke evacuation procedure, could result in injury to occupants of the courier area.

(f) Compliance

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

(g) Definitions

The definitions in paragraphs (g)(1) through (3) of this AD apply.

(1) An affected part is a 32209-series oxygen flexible hose used in the CAOS, having a part number specified in figure 1 to paragraph (g)(1) of this AD.

Figure 1 to paragraph (g)(1) – *Affected parts and improved serviceable parts*

Affected Parts	Improved Serviceable Parts
32209H0136K000	A26157-01
32209E0314F090	A26008-01
32209E0190C	32301E0200C
32209E0230C	A26007-01
32209E0266C	A26009-01

(2) A serviceable part is an affected part that is new (never previously installed), or that, before further flight after installation into the CAOS, has passed an inspection and functional test (no leakage or damage found) as specified in paragraph (h) of this AD.

(3) An improved serviceable part is a flexible hose having a part number as specified in figure 1 to paragraph (g)(1) of this AD.

(h) Retained Repetitive Inspections, With Revised Service Information

This paragraph restates the requirements of paragraph (h) of AD 2021–06–07, with revised service information. Within 1,600 flight hours after April 20, 2021 (the effective date of AD 2021–06–07) and thereafter at intervals not to exceed 1,600 flight hours, do a detailed inspection (including functional testing) for leakage or damage of the CAOS and lavatory A oxygen system in accordance with the Accomplishment Instructions of Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0001, dated March 8, 2019; Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0002, dated September 2, 2019; Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0001, Revision 01, dated July 3, 2020; or Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0002, Revision 01, dated June 22, 2020; as applicable.

(i) Retained Replacement, With Revised Service Information and a New Replacement Action Option

This paragraph restates the requirements of paragraph (i) of AD 2021–06–07, with revised service information and a new replacement action option. If, during any inspection required by paragraph (h) of this AD, any leakage or damage (*i.e.,* cracking) is found: Before further flight, do the actions specified in paragraph (i)(1) or (2) of this AD:

(1) Replace the affected part with a serviceable part, as defined in paragraph (g)(2) of this AD, in accordance with the Accomplishment Instructions of Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0001, dated March 8, 2019; Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0002, dated September 2, 2019; Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0001, Revision 01, dated July 3, 2020; or Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0002, Revision 01, dated June 22, 2020; as applicable.

(2) Replace each affected part with an improved serviceable part, as defined in paragraph (g)(3) of this AD, in accordance with the Accomplishment Instructions of Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0003, dated January 27, 2021; or Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0006, dated June 9, 2021; as applicable.

(j) New Requirement of This AD: Modification

Unless already accomplished as specified in paragraph (i) of this AD, within 42 months after the effective date of this AD, modify the airplane by replacing each affected part with an improved serviceable part, as defined in paragraph (g)(3) of this AD, in accordance with the Accomplishment Instructions of Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0003, dated January 27, 2021; or Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0006, dated June 9, 2021; as applicable.

(k) Terminating Action

(1) Replacement of an affected part with a serviceable part, as specified in paragraph (i) of this AD, does not terminate the repetitive inspections required by paragraph (h) of this AD.

(2) Modification of an airplane by installing improved serviceable parts as required by paragraph (j) of this AD, or as specified in paragraph (i) of this AD, as applicable, terminates the repetitive inspections required by paragraph (h) of this AD for that airplane.

(l) Parts Installation Prohibition

After modifying an airplane by replacing each affected part with an improved serviceable part as required by paragraph (j) of this AD, or as specified in paragraph (i) of this AD, as applicable, no person may install an affected part on any airplane.

(m) Other FAA 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, Large Aircraft Section, International Validation Branch, FAA; or the European Union Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to EASA AD 2021–0173, dated July 21, 2021, for related information. This EASA AD may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1247.

(2) For more information about this AD, contact Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov*.

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on November 23, 2022.

(i) Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0001, Revision 01, dated July 3, 2020.

(ii) Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0002, Revision 01, dated June 22, 2020.

(iii) Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0003, dated January 27, 2021.

(iv) Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0006, dated June 9, 2021.

(4) The following service information was approved for IBR on April 20, 2021 (86 FR 17512, April 5, 2021).

(i) Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0001, dated March 8, 2019.

(ii) Elbe Flugzeugwerke GmbH Service Bulletin EFW–SB–35–0002, dated September 2, 2019.

(5) For service information identified in this AD, contact Elbe Flugzeugwerke GmbH Customer Support, Grenzstraße 1, 01109 Dresden, Germany; phone: +49 351 8839 2749; fax: +49 351 8839 2125; email: *efw.techpub@efw.aero;* website: *elbeflugzeugwerke.com/en/.*

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

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

Issued on September 26, 2022.

Christina Underwood,

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

[FR Doc. 2022–24307 Filed 11–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0672; Project Identifier MCAI–2020–01606–T; Amendment 39–22228; AD 2022–23–01]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–04–20, which applied to certain De Havilland Aircraft of Canada Limited Model DHC–8–400 series airplanes. AD 2020–04–20 required repetitive inspections of certain parts for discrepancies that meet specified criteria, and replacement as necessary; repetitive inspections of certain parts for damage and wear, and rework of parts; and electrical bonding checks of certain couplings. AD 2020–04–20 also required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. For certain airplanes, AD 2020–04–20 allowed a modification that terminates the repetitive inspections. This AD continues to require the actions in AD 2020–04–20, revises the applicability by adding airplanes, and requires, for certain airplanes, the previously optional rework and retrofit of certain parts of the fuel system. Doing the rework and retrofit terminates the retained initial and repetitive inspections in this AD. This AD was prompted by reports of wear on fuel couplings, bonding springs, and sleeves as well as fuel tube end ferrules and fuel component end ferrules, and by a determination that a more robust lightning ignition protection design is necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 13, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 4, 2020 (85 FR 17473, March 30, 2020).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0672; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference

- For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855–310–1013, Direct: 647–277–5820; email *thd@dehavilland.com;* website *dehavilland.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2022–0672.

FOR FURTHER INFORMATION CONTACT: Joseph Catanzaro, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–04–20, Amendment 39–19857 (85 FR 17473, March 30, 2020) (AD 2020–04–20). AD 2020–04–20 applied to certain De Havilland Aircraft of Canada Limited Model DHC–8–400 series airplanes. AD 2020–04–20 required repetitive inspections of certain parts for discrepancies that meet specified criteria, and replacement as necessary; repetitive inspections of certain parts for damage and wear, and rework of parts; and electrical bonding checks of certain couplings. AD 2020–04–20 also required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. For certain airplanes, AD 2020–04–20 allowed a modification that terminated the repetitive inspections. The FAA issued AD 2020–04–20 to address wear on fuel couplings, bonding springs, and sleeves as well as fuel tube end ferrules and fuel component end ferrules, which could reduce the integrity of the electrical bonding paths through the fuel line and components, and ultimately lead to fuel tank ignition in the event of a lightning strike.

The NPRM published in the **Federal Register** on June 9, 2022 (87 FR 35128). The NPRM was prompted by AD CF–2017–04R3, dated April 1, 2020, issued by Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that wear has been detected on fuel couplings, bonding springs, and sleeves as well as fuel tube end ferrules and fuel component end ferrules. The MCAI also states that a more robust lightning ignition protection design is necessary. The MCAI states that such wear could reduce the integrity of the electrical bonding paths through the fuel line and components, and ultimately lead to fuel tank ignition in the event of a lightning strike.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0672.

In the NPRM, the FAA proposed to continue to require the actions in AD 2020–04–20, revise the applicability by adding airplanes, and require, for certain airplanes, the previously optional rework and retrofit of certain parts of the fuel system.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2020–04–20. The SNPRM published in the **Federal Register** on August 31, 2022 (87 FR 53424) (the SNPRM). The SNPRM was prompted by the FAA's determination that the NPRM inadvertently limited the proposed new terminating rework and retrofit to airplanes that had accomplished certain service information. In addition, the FAA determined that the optional terminating action specified in AD 2020–04–20, and corresponding credit, should be carried over to this AD. In the SNPRM, the FAA proposed to continue to require the actions in AD 2020–04–20, revise the applicability by adding airplanes, and require, for certain airplanes, the previously optional rework and retrofit of certain parts of the fuel system. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) who supported the SNPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for

minor editorial changes, this AD is adopted as proposed in the SNPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

This AD requires the following service information, which the Director of the Federal Register approved for incorporation by reference as of May 4, 2020 (85 FR 17473, March 30, 2020).

- Bombardier Service Bulletin 84–28–20, Revision D, dated November 23, 2018.
- Bombardier Service Bulletin 84–28–21, Revision C, dated July 13, 2018.
- Bombardier Service Bulletin 84–28–26, Revision A, dated November 29, 2018.
- Q400 Dash 8 (Bombardier) Temporary Revision ALI–0192, dated April 24, 2018.
- Q400 Dash 8 (Bombardier) Temporary Revision ALI–0193, dated April 24, 2018.

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

Costs of Compliance

The FAA estimates that this AD affects 54 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020–04–20	268 work-hours × $85 per hour = $22,780.	$0	$22,780	$1,230,120.
New actions	Up to 1,747 work-hours × $85 per hour = Up to $148,495.	87,385	Up to $235,880	Up to $12,737,520.

* Table does not include estimated costs for revising the existing maintenance or inspection program.

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the FAA recognizes that this number may vary from operator to operator. In the past, the FAA has estimated that this action takes 1 work-hour per airplane. 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. Therefore, the FAA estimates the total cost per operator 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–04–20, Amendment 39–19857 (85 FR 17473, March 30, 2020); and

■ b. Adding the following new AD:

2022–23–01 De Havilland Aircraft of Canada Limited (Type Certificate previously held by Bombardier, Inc.): Amendment 39–22228; Docket No. FAA–2022–0672; Project Identifier MCAI–2020–01606–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 13, 2022.

(b) Affected ADs

This AD replaces AD 2020–04–20, Amendment 39–19857 (85 FR 17473, March 30, 2020) (AD 2020–04–20).

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes, certificated in any category, manufacturer serial numbers 4001 and 4003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of wear on fuel couplings, bonding springs, and sleeves as well as fuel tube end ferrules and fuel component end ferrules, and by a determination that a more robust lightning ignition protection design is necessary. The FAA is issuing this AD to address such wear, which could reduce the integrity of the electrical bonding paths through the fuel line and components, and ultimately lead to fuel tank ignition in the event of a lightning strike.

(f) Compliance

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

(g) Retained Initial Inspection Compliance Times, With New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2020–04–20, with new terminating action. For airplanes having serial numbers 4001 and 4003 through 4575 inclusive that, as of May 4, 2020 (the effective date of AD 2020–04–20), have not done the actions specified in Bombardier Service Bulletin 84–28–21: At the applicable times specified in paragraph (g)(1) or (2) of this AD, do the actions specified in paragraphs (h)(1) and (2) of this AD. Accomplishing the terminating action required by paragraph (p) of this AD terminates the initial inspection required by this paragraph.

(1) For all airplanes except those identified in paragraph (g)(2) of this AD: Within 6,000 flight hours or 36 months, whichever occurs first after May 4, 2020 (the effective date of AD 2020–04–20).

(2) For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or after May 4, 2020 (the effective date of AD 2020–04–20): Within 6,000 flight hours or 36 months, whichever occurs first after the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(h) Retained Repetitive Inspections and Corrective Actions, With New Terminating Action

This paragraph restates the requirements of paragraph (h) of AD 2020–04–20, with new terminating action. For airplanes having serial numbers 4001 and 4003 through 4575 inclusive that, as of May 4, 2020 (the effective date of AD 2020–04–20), have not done the actions specified in Bombardier Service Bulletin 84–28–21: At the applicable times specified in paragraph (g)(1) or (2) of this AD, do the actions specified in paragraphs (h)(1) and (2) of this AD. Repeat the actions thereafter at intervals not to exceed 6,000 flight hours or 36 months, whichever occurs first. Accomplishing the terminating action required by paragraph (p) of this AD terminates the repetitive inspections required by this paragraph.

(1) Do a detailed inspection of the clamshell coupling bonding wires, fuel couplings, and associated sleeves for discrepancies that meet specified criteria, as identified in, and in accordance with, paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–20, Revision D, dated November 23, 2018. If any conditions are found meeting the criteria specified in Bombardier Service Bulletin 84–28–20, Revision D, dated November 23, 2018, before further flight, replace affected parts with new couplings and sleeves of the same part number, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Bulletin 84–28–20, Revision D, dated November 23, 2018.

(2) Do a detailed inspection of the fuel tube end ferrules, fuel component end ferrules, and ferrule O-ring flanges for damage and wear, and rework (repair, replace, or blend, as applicable) the parts, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–20, Revision D, dated November 23, 2018.

(i) Retained Optional Terminating Action for Repetitive Inspections With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2020–04–20, with no changes. For airplanes having serial numbers 4001 and 4003 through 4575 inclusive: Doing a detailed inspection of the fuel tube end ferrules, fuel component end ferrules, and ferrule O-ring flanges for damage and wear, and reworking (repair, replace, or blend, as applicable) the parts; and doing a retrofit (structural rework) of the fuel couplings, isolators, and structural provisions, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–21, Revision C, dated July 13, 2018, terminates the inspections specified in paragraphs (h)(1) and (2) of this AD.

(j) Retained Electrical Bonding Checks/ Detailed Inspection, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2020–04–20, with no changes. For airplanes having serial numbers 4001, 4003 through 4489 inclusive, and 4491 through 4575 inclusive that, as of May 4, 2020 (the effective date of AD 2020–04–20), have done the actions specified in Bombardier Service Bulletin 84–28–21, Revision A, dated September 29, 2017; and airplanes having serial numbers 4576 through 4581 inclusive: Within 6,000 flight hours or 36 months after May 4, 2020, whichever occurs first, do the actions specified in paragraph (j)(1) or (2) of this AD.

(1) Accomplish electrical bonding checks of all threaded couplings on the inboard vent lines in the left and right wings, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–26, Revision A, dated November 29, 2018.

(2) Do a detailed inspection of the fuel tube end ferrules, fuel component end ferrules, and ferrule O-ring flanges for damage and wear, and rework (repair, replace, or blend, as applicable) the parts; and a retrofit (structural rework) of the fuel couplings, isolators, and structural provisions; in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–21, Revision C, dated July 13, 2018.

(k) Retained Revision of the Existing Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2020–04–20, with no changes. Within 30 days after May 4, 2020 (the effective date of AD 2020–04–20), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Q400 Dash 8 (Bombardier) Temporary Revision ALI–0192, dated April 24, 2018; and Q400 Dash 8 (Bombardier) Temporary Revision ALI–0193, dated April 24, 2018. Except as specified in paragraph (l) of this AD, the initial compliance time for doing the tasks in Q400 Dash 8 (Bombardier) Temporary Revision ALI–0192, dated April 24, 2018, is at the time specified in Q400 Dash 8 (Bombardier) Temporary Revision ALI–0192, dated April 24, 2018, or within 30 days after May 4, 2020, whichever occurs later.

(l) Retained Initial Compliance Time for Task 284000–419, With No Changes

This paragraph restates the requirements of paragraph (l) of AD 2020–04–20, with no changes. The initial compliance time for task 284000–419 is at the time specified in paragraph (l)(1) or (2) of this AD, as applicable, or within 30 days after May 4, 2020 (the effective date of AD 2020–04–20), whichever occurs later.

(1) For airplanes having serial numbers 4001 and 4003 through 4575 inclusive: Within 18,000 flight hours or 108 months, whichever occurs first, after the earliest date of embodiment of Bombardier Service Bulletin 84–28–21 on the airplane.

(2) For airplanes having serial numbers 4576 and subsequent: Within 18,000 flight hours or 108 months, whichever occurs first, from the date of issuance of the original airworthiness certificate or original export certificate of airworthiness.

(m) Retained No Alternative Actions, Intervals, or Critical Design Configuration Control Limitations (CDCCLs), With No Changes

This paragraph restates the requirements of paragraph (m) of AD 2020–04–20, with no changes. After the existing maintenance or inspection program has been revised as required by paragraph (k) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (r)(1) of this AD.

(n) Retained No Reporting Provisions, With No Changes

This paragraph restates the provisions of paragraph (n) of AD 2020–04–20, with no changes. Although Bombardier Service Bulletin 84–28–20, Revision D, dated November 23, 2018, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(o) Retained Credit for Previous Actions, With No Changes

(1) This paragraph restates the provisions of paragraph (o) of AD 2020–04–20, with no changes. This paragraph provides credit for the actions required by paragraphs (h)(1) and (2) of this AD, if those actions were performed before May 4, 2020 (the effective date of AD 2020–04–20), using the service information specified in paragraph (o)(1)(i) through (iii) of this AD.

(i) Bombardier Service Bulletin 84–28–20, Revision A, dated December 14, 2016.

(ii) Bombardier Service Bulletin 84–28–20, Revision B, dated February 13, 2017.

(iii) Bombardier Service Bulletin 84–28–20, Revision C, dated April 28, 2017.

(2) For the airplane having serial number 4164, this paragraph provides credit for the initial inspections required by paragraphs (h)(1) and (2) of this AD, if those actions were performed before May 4, 2020 (the effective date of AD 2020–04–20), using Bombardier Service Bulletin 84–28–20, dated September 30, 2016.

(3) This paragraph provides credit for the actions specified in paragraph (i) of this AD if those actions were performed before May 4, 2020 (the effective date of AD 2020–04–20), using the service information specified in paragraph (o)(3)(i) through (iii) of this AD.

(i) Bombardier Service Bulletin 84–28–21, dated August 31, 2017.

(ii) Bombardier Service Bulletin 84–28–21, Revision A, dated September 29, 2017.

(iii) Bombardier Service Bulletin 84–28–21, Revision B, dated June 8, 2018.

(4) This paragraph provides credit for the actions required by paragraph (j)(1) of this AD if those actions were performed before May 4, 2020 (the effective date of AD 2020–04–20), using Bombardier Service Bulletin 84–28–26, dated August 14, 2018.

(5) This paragraph provides credit for the actions required by paragraph (j)(2) of this AD if those actions were performed before May 4, 2020 (the effective date of AD 2020–04–20), using Bombardier Service Bulletin 84–28–21, Revision B, dated June 8, 2018.

(6) For airplanes having serial numbers 4001, 4003 through 4489 inclusive, and 4491 through 4575 inclusive, and that are post Bombardier Service Bulletin 84–28–21, Revision A, dated September 29, 2017: This paragraph provides credit for the actions required by paragraph (j) of this AD if those actions were performed before May 4, 2020 (the effective date of AD 2020–04–20), using the service information specified in paragraph (o)(6)(i) or (ii) of this AD.

(i) Bombardier Modification Summary Package (ModSum) IS4Q2800032, dated February 1, 2018.

(ii) Any airworthiness limitation change request (ACR) specified in figure 1 to paragraph (o)(6)(ii) of this AD.

Figure 1 to paragraph (o)(6)(ii) – *ACRs*

ACR Number	Dated
400-072	January 24, 2018
400-073	January 23, 2018
400-074	January 24, 2018
400-077	February 27, 2018
400-078	March 21, 2018
400-079	April 18, 2018
400-080	April 30, 2018
400-081	May 4, 2018
400-082	May 4, 2018
400-083	June 4, 2018
400-084	May 18, 2018

(p) New Rework and Retrofit

For airplanes having serial numbers 4001 and 4003 through 4575 inclusive: At the applicable time specified in paragraph (p)(1) or (2) of this AD, rework (repair, replace, or blend, as applicable) the parts (fuel tube end ferrules, fuel component end ferrules, and ferrule O-ring flanges); and do a retrofit (structural rework) of the fuel couplings, isolators, and structural provisions; in accordance with Part B of paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–28–21, Revision C, dated July 13, 2018. Accomplishing these actions terminates the initial and repetitive inspections required by paragraphs (g) and (h) of this AD.

(1) For airplanes with greater than 20,000 total flight hours as of the effective date of this AD: Do the actions within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first.

(2) For airplanes with less than or equal to 20,000 total flight hours as of the effective date of this AD: Do the actions within 8,000 flight hours or 48 months after the effective date of this AD, whichever occurs first.

(q) New Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (p) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (q)(1), (2), or (3) of this AD.

(1) Bombardier Service Bulletin 84–28–21, dated August 31, 2017.

(2) Bombardier Service Bulletin 84–28–21, Revision A, dated September 29, 2017.

(3) Bombardier Service Bulletin 84–28–21, Revision B, dated June 8, 2018.

(r) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the New York ACO Branch, mail it to ATTN: Program Manager, Continuing Operational Safety, at the address identified in paragraph (s)(2) of this AD or email to: *9-avs-nyaco-cos@faa.gov.* If mailing information, also submit information by email. 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, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO,

the approval must include the DAO-authorized signature.

(s) Additional Information

(1) Refer to TCCA AD CF–2017–04R3, dated April 1, 2020, for related information. This TCCA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–0672.

(2) For more information about this AD, contact Joseph Catanzaro, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; email *9-avs-nyaco-cos@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (t)(4) and (5) of this AD.

(t) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on May 4, 2020 (85 FR 17473, March 30, 2020).

(i) Bombardier Service Bulletin 84–28–20, Revision D, dated November 23, 2018.

(ii) Bombardier Service Bulletin 84–28–21, Revision C, dated July 13, 2018.

(iii) Bombardier Service Bulletin 84–28–26, Revision A, dated November 29, 2018.

(iv) Bombardier Q400 Dash 8 (Bombardier) Temporary Revision ALI–0192, dated April 24, 2018.

(v) Q400 Dash 8 (Bombardier) Temporary Revision ALI–0193, dated April 24, 2018.

(4) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855–310–1013, Direct: 647–277–5820; email *thd@dehavilland.com;* website *dehavilland.com.*

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

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

Issued on October 25, 2022.

Christina Underwood,

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

[FR Doc. 2022–24289 Filed 11–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1164; Project Identifier MCAI–2021–01379–T; Amendment 39–22186; AD 2022–20–02]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–1041 airplanes. This AD was prompted by a potential interference between the ram air turbine (RAT) blade tip and the belly fairing (BF) RAT inboard door. This AD requires replacing the BF inboard RAT door and BF adjacent panels, and prohibits the installation of affected parts, as specified in a European Union Aviation Safety Agency (EASA), which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective November 23, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 23, 2022.

The FAA must receive comments on this AD by December 23, 2022.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1164; 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 AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1164; Project Identifier MCAI–2021–01379–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission

containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@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

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0269, dated December 3, 2021 (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–1041 airplanes. The MCAI states that a potential clash between the RAT blade tip and the BF RAT inboard door at 10.5° angle RAT deployment has been identified in the final assembly line during RAT ground extension. During the acceptance flight, no contact during RAT deployment occurred. However, the acceptance flight does not cover all flight envelope conditions. The investigation revealed that a clash with the BF RAT inboard door cannot be excluded for the entire flight envelope. The FAA is issuing this AD to address the potential interference between the RAT blade tip and the BF RAT inboard door. This condition, if not corrected, could, when the RAT is deployed during an emergency situation, lead to partial or total loss of RAT electrical power generation, resulting in reduced control of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1164.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0269 specifies procedures for replacing the BF inboard RAT door and BF adjacent panels. EASA AD 2021–0269 also prohibits the installation of affected parts.

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

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

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2021–0269 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2021–0269 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2021–0269 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0269 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0269. Service information required by EASA AD 2021–0269 for compliance will be available at *regulations.gov* under Docket No. FAA–2022–1164 after this AD is published.

FAA's Justification and Determination of the Effective Date

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

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product
Up to 25 work-hours × $85 per hour = $2,125	Up to $160,500	Up to $162,625.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA

with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–20–02 Airbus SAS: Amendment 39–22186; Docket No. FAA–2022–1164; Project Identifier MCAI–2021–01379–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–1041 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a potential interference between the ram air turbine (RAT) blade tip and the belly fairing (BF) RAT inboard door that has been identified in the final assembly line during RAT ground extension. The FAA is issuing this AD to address this potential interference. This condition, if not corrected, could, when the RAT is deployed during an emergency situation, lead to partial or total loss of RAT electrical power generation, resulting in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0269.

(h) Exceptions to EASA AD 2021–0269

(1) Where EASA AD 2021–0269 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0269 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-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 Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0269, dated December 3, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0269, 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.*

(4) 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.

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

Issued on September 13, 2022.

Christina Underwood,

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

[FR Doc. 2022–24298 Filed 11–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0817; Project Identifier MCAI–2022–00369–T; Amendment 39–22197; AD 2022–20–13]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and A350–1041 airplanes. This AD was

prompted by a determination that in the event of rapid decompression at a specific location of the airplane, possible deflections of the passenger floor cross beams may result in wiring damages, leading to potential system losses. This AD requires amending the operator's existing airplane flight manual (AFM) to update the landing performance database, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 13, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0817; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For the material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this IBR 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* under Docket No. FAA–2022–0817.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus A350–941 and A350–1041 airplanes. The NPRM published in the **Federal Register** on July 12, 2022 (87 FR 41265). The NPRM was prompted by AD 2022–0054, dated March 23, 2022, issued by EASA, which is the Technical Agent for the Member States of the European Union (referred to after this as the MCAI). The MCAI states that in the event of rapid decompression at a specific location of the airplane, possible deflections of the passenger floor cross beams may result in wiring damages, leading to potential system losses.

In the NPRM, the FAA proposed to require revising the operator's existing Airbus A350 AFM to update the landing performance database, as specified in EASA AD 2022–0054. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0817.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association and three individuals, who supported the NPRM without change. One individual did not support the NPRM but did not justify this position or request any changes to the NPRM.

Conclusion

This product has been approved by the aviation authority of another country and is 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 referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0054 specifies procedures for revising the operator's existing Airbus A350 AFM to update the landing performance database.

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

Costs of Compliance

The FAA estimates that this AD would affect 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$2,550

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–20–13 Airbus SAS: Amendment 39–22197; Docket No. FAA–2022–0817; Project Identifier MCAI–2022–00369–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 13, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 and A350–1041 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that, in the event of rapid decompression at a specific location of the airplane, possible deflections of the passenger floor crossbeams may result in wiring damages, leading to potential system losses. The FAA is issuing this AD to address this unsafe condition, which could lead to an increase of the landing distance, exceeding the value provided in the current in-flight failure data file for landing, and potentially resulting in a runway excursion.

(f) Compliance

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

(g) Requirements

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 2022–0054, dated March 23, 2022 (EASA AD 2022–0054).

(h) Exceptions to EASA AD 2022–0054

(1) Where EASA AD 2022–0054 refers to March 30, 2022 (the effective date of EASA AD 2022–0045, dated March 16, 2022), this AD requires using the effective date of this AD.

(2) Where EASA AD 2022–0054 specifies to ''inform all flight crews, and thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(3) Where the ''AFM Amendment'' paragraph of EASA AD 2022–0054 specifies implementing an AFM [airplane flight manual] revision, for this AD, replace the text ''implement the AFM revision, as defined in this [EASA] AD'' with ''revise the operator's existing AFM to incorporate the aircraft performance database specified in the AFM revision, as defined in this [EASA] AD.''

(4) The ''Remarks'' section of EASA AD 2022–0054 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) 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 Airbus SAS's Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0054, dated March 23, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0054, 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.*

(4) 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.

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

Issued on September 22, 2022.

Christina Underwood,

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

[FR Doc. 2022–24308 Filed 11–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 571

RIN 3141–AA68

Audit Standards

AGENCY: National Indian Gaming Commission.

ACTION: Final rule; correction.

SUMMARY: The National Indian Gaming Commission inadvertently referred to an incorrect RIN in a recent final rule published in the **Federal Register** concerning audit standards. Throughout the rulemaking process, we referenced

the wrong RIN. This document corrects that error in the final rule.

DATES: This correction is effective November 8, 2022, and is applicable beginning October 21, 2022.

FOR FURTHER INFORMATION CONTACT: Michael Hoenig, 202–632–7003.

SUPPLEMENTARY INFORMATION: The rulemaking process culminating in the final rule on audit standards used an incorrect RIN. The RIN used (RIN 3141–AA72) is assigned to Self Regulation of Class II Gaming Activities. The correct reference for the audit standards regulations is RIN 3141–AA68.

Correction

In final rule FR Doc. 2022–20230, beginning on page 57595 in the issue of September 21, 2022, make the following correction. On page 57595, correct the RIN in the document heading to read ''RIN 3141–AA68''.

Dated: November 2, 2022.

Michael Hoenig,

General Counsel.

[FR Doc. 2022–24304 Filed 11–7–22; 8:45 am]

BILLING CODE 7565–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 152

[EPA–HQ–OPP–2019–0701; FRL–7542–05–OCSPP]

RIN 2070–AK56

Pesticides; Addition of Chitosan (Including Chitosan Salts) to the List of Active Ingredients Permitted in Exempted Minimum Risk Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is adding a substance commonly referred to as chitosan (also known by its chemical name: poly-D-glucosamine) (CAS No. 9012–76–4) to the list of active ingredients eligible for use in minimum risk pesticide products exempt from registration and other requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In doing so, EPA is specifying that the listing also includes those chitosan salts that can be formed when chitosan is mixed with the acids that are listed as active or inert ingredients eligible for use in minimum risk pesticide products.

DATES: This final rule is effective on January 9, 2023.

ADDRESSES: The docket for this action, identified under docket identification (ID) number EPA–HQ–OPP–2019–0701, is available 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: Charles Smith, Director, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2427; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, distribute, sell, or use minimum risk pesticide products. Minimum risk pesticide products are exempt from registration and other FIFRA requirements and are described in 40 CFR 152.25(f). 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:

- Pesticide and other agricultural chemical manufacturers (NAICS codes 325320 and 325311), as well as other manufacturers in similar industries such as animal feed (NAICS code 311119), cosmetics (NAICS code 325620), and soap and detergents (NAICS code 325611).
- Manufacturers who may also be distributors of these products, including farm supplies merchant wholesalers (NAICS code 424910), drug and druggists merchant wholesalers (NAICS code 424210).
- Retailers of minimum risk pesticide products, including nursery, garden center, and farm supply stores (NAICS code 444220); outdoor power equipment stores (NAICS code 444210); and supermarkets (NAICS code 445110).
- Users of minimum risk pesticide products, including the public in general, exterminating and pest control services (NAICS code 561710), landscaping services (NAICS code 561730), and sports and recreation institutions (NAICS code 611620). Many of these entities also manufacture minimum risk pesticide products.

B. What action is the Agency taking?

EPA is adding chitosan to the list of active ingredients allowed in minimum risk pesticide products exempt from registration and other requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* In addition, EPA is specifying that the listing also includes those chitosan salts that can be formed with the acids that are listed as active or inert ingredients eligible for use in minimum risk pesticide products.

Chitosan is a naturally occurring substance found in the cell walls of many fungi. Chitosan also occurs in the shells of all crustaceans (*e.g.,* crab, shrimp, and lobster) and in the exoskeletons of most insects. Microorganisms in nature produce enzymes that break down chitosan, resulting in sugars that are metabolized as a carbon and nitrogen source.

C. What is EPA's authority for taking this action?

This action is issued under the authority of FIFRA, 7 U.S.C. 136 *et seq.,* particularly FIFRA sections 3 and 25.

D. Why is EPA taking this action?

EPA may exempt from the requirements of FIFRA any pesticide that is ''. . . of a character which is unnecessary to be subject to [FIFRA]'' (FIFRA section 25(b). Pursuant to this authority, EPA has exempted from the pesticide registration and requirements of FIFRA certain pesticide products if they are composed of specified active and inert ingredients which are listed and labeled according to EPA's regulations in 40 CFR 152.25(f). The exemption for minimum risk pesticides eliminates the need for the Agency to expend significant resources to regulate products that were deemed to be of minimum risk to human health and the environment, and for manufacturers and distributors to spend the resources to register such products.

As discussed in the proposed rule (Ref. 1), this action was initiated in response to a petition from Tidal Vision Products, LLC to add chitosan to the list of active ingredients allowable in minimum risk products (Refs. 2 and 3).

E. What are the estimated incremental impacts of this rule?

After reviewing the Cost Analysis that EPA prepared for the proposed rule (Ref. 4), EPA determined that the analysis presented in that document did not warranted changes for the final rule. A copy of the Cost Analysis is in the docket and is summarized in this unit.

If chitosan and chitosan salts formed from mixing with eligible active and

inert ingredients were not included in this exemption, persons seeking to manufacture or distribute pesticide products containing chitosan would be required to register those product(s) under FIFRA. This could entail generating supporting data, incurring submission costs, and paying registration fees. In addition, the petitioner could incur annual maintenance fees on the registrations. EPA's 2019 cost analysis estimates the cost savings of listing chitosan as an active ingredient that can be used in minimum risk pesticide products under 40 CFR 152.25(f) to be between $53,000 and $116,000 initially and about $3,400 per year thereafter for each pesticide product registered containing chitosan (Ref. 4). EPA has also determined that the estimated costs savings per product registered containing chitosan salts would be the same as those containing chitosan.

For EPA, this action may reduce the Agency's level-of-effort that would otherwise be spent on registering pesticide products with little risk. The impact on state regulatory costs is uncertain, as states have wide variability in how they regulate pesticide products registered by EPA and products exempt from registration under FIFRA section 25(b) (which include minimum risk pesticide products). The impact to each state will depend on how each state regulates pesticides registered by EPA versus how they regulate FIFRA section 25(b) products. States which register pesticides that are registered by EPA but not FIFRA section 25(b) products would see a reduced burden from the addition of chitosan (including chitosan salts, as specified) to the FIFRA section 25(b) list. However, since most states defray that burden through registration fees, the overall impact is expected to be negligible. Because the EPA does not review labels of FIFRA section 25(b) products, states may see an increased burden related to enforcing the conditions for labeling these products. Also, as a result of this action there may be more products seeking state registrations.

In the absence of an exemption, manufacturers may be foregoing development and production of chitosan-based products due to cost concerns. Thus, the exemption may ultimately benefit consumers who may see more of these products available at lower costs.

II. Background

A. FIFRA Section 25(b) Exemptions

As authorized by FIFRA section 25(b), EPA has exempted from the requirement of registration certain pesticide products if they are composed of specified ingredients (recognized active and inert substances which are listed in the regulations) and labeled according to EPA's regulations in 40 CFR 152.25(f). Starting in 1996, EPA exempted such products to reduce the cost and regulatory burdens on businesses and the public for pesticides posing little or no risk, and to focus the Agency's resources on pesticides that pose greater risk to humans and the environment.

B. Petition To Exempt Chitosan

On October 10, 2018, EPA received a petition from Tidal Vision Products, LLC (Ref. 2) requesting that chitosan be added to the list of active ingredients eligible for use in exempted minimum risk pesticide products under 40 CFR 152.25(f)(1). Subsequently, on April 4, 2019, EPA received an amendment to Tidal Vision Products, LLC's petition, requesting that chitosan also be added to the list of inert ingredients allowed in exempted minimum risk pesticide products under 40 CFR 152.25(f)(2) (Ref. 3).

The Agency deferred a decision on the 2019 petition regarding whether to add chitosan to the list of allowable inert ingredients, but granted the petition with respect to inclusion of chitosan as an eligible active ingredient for the minimum risk exemption.

C. EPA's Proposed Rule

On November 2, 2020, EPA issued a proposal to address the 2018 petition (Ref. 1). In the proposal, EPA stated that based on all the information available to the Agency, there are low risk concerns for human health or the environment if chitosan is intended for use as a minimum risk pesticide. For a more detailed explanation of the review that EPA conducted in support of the proposal, see Unit III. of the proposed rule (Ref. 1).

In the **Federal Register** of May 6, 2022 (Ref. 5), EPA announced the availability of and sought public comment on two aquatic toxicity reports on chitosan salts that were submitted to the Agency by Tidal Vision Products, LLC (Refs. 6 and 7).

III. Public Comments and EPA's Responses

EPA received ten public comments on the proposed rule but did not receive any additional comments in response to the May 2022 document. This unit summarizes the comment received and the Agency's responses to those comments. The comments received included comments that raised questions about the human health and environmental impacts of chitosan, comments related to chitosan salts, comments on EPA's assessment of the impacts of the rulemaking, comments raising implementation issues related minimum risk pesticide products generally and chitosan specifically, and other general comments.

A. Chitosan Salts

1. *Comment.* Some commenters raised questions regarding chitosan salts such as chitosan hydrochloride (CAS No. 70694–72–3), chitosan acetate (CAS No. 87582–10–3), chitosan lactate (CAS No. 66267–50–3), or chitosan salicylate (CAS No. 84563–67–7). One of the commenters stated that chitosan itself is insoluble and that due to its insolubility, chitosan must first be converted into a soluble chitosan salt before it can be effectively utilized in many different industries (water treatment, drug delivery, pest control, etc.). This process involves reacting chitosan with an acid to produce a chitosan salt. The salts are water soluble and functional for a wide range of uses. The commenter stated that the salts are bioavailable to organisms and develop the ability to cause toxicity to gilled organisms at relatively low concentrations. The commenter also stated that studies have shown acute toxicity of chitosan acetate to fish at less than 1 mg/L and that fish and gilled organisms exposed to chitosan salts experience respiratory stress that can lead to death by hypoxia. The commenter recommended that EPA make clear differentiation between chitosan and chitosan salts. According to the commenter, chitosan is not equal to, nor interchangeable with chitosan acetate, chitosan lactate, and chitosan hydrochloride. Chitosan is a different chemical with a different CAS number than each chitosan salt.

2. *EPA Response.* EPA reviewed the information provided by the commenter and searched the public literature on this point. The Agency also reviewed two aquatic toxicity reports on chitosan salts submitted by Tidal Vision Products, LLC (Refs. 6 and 7). EPA announced the availability of and sought comments on both reports in May 2022 (Ref. 5) and did not receive any comments.

In addition, EPA performed an extensive literature search and data analysis for all chitosan salts with an emphasis on those created in the pesticide products currently registered

with the Agency. EPA also developed an addendum to the science review in support of the addition of chitosan to the list of minimum risk pesticides contained in 40 CFR 152.25(f) (Ref. 8). In that document, EPA noted that the petition to include chitosan on the list of minimum risk pesticides specifically requests addition of chitosan with CAS No. 9012–76–4 to the list, which is the chitosan polymer produced from deacetylation of chitin, an insoluble chemical commonly referred to ''dry'' chitosan. Through further investigation, the Agency believes that some registered products containing 'dry' chitosan as active ingredients along with solubilizing acids as inert ingredients form chitosan salts (Ref. 8).

The Agency's overall analysis of the available data suggests that these substances are of low toxicity to humans. No risks of concern have been identified. However, EPA notes that the human health assessment database is limited both in terms of studies performed and representative chitosan salts tested.

EPA has not found any evidence that chitosan salts have adverse effects on non-target terrestrial organisms. While the form and exposure from dry chitosan used in fish feed suggests low risk to aquatic taxa, studies identified in the scientific literature indicate chitosan acetate has the potential to be highly toxic to rainbow trout. Guideline studies available in the Agency's database, on the other hand, indicate that chitosan acetate is moderately toxic to fish and aquatic invertebrates. Studies used in this assessment were selected because they reported the necessary information (*e.g.,* LC50 values) for risk calculations and adhered to Agency guidelines. Calculated risks quotients (RQs) based on non-target organism toxicity data and aquatic exposure modeling are below the Agency's level of concern by several orders of magnitude. Therefore, EPA is adding chitosan and any salts formed from the mixing of chitosan with minimum risk active or inert ingredients to the list of eligible active ingredients at 40 CFR 152.25(f)(1).

B. Human and Environmental Health

1. *Comments.* EPA received a comment in general support of the rulemaking, stating that the scientific evidence is clear and consistent in showing that chitosan is safe to humans and the environment. Another commenter opposed the addition of chitosan to the list of active ingredients allowed in minimum risk pesticide products, stating that that there are numerous concerns with the potential composition and purity of chitosan produced for minimum risk pesticide products as well as potential adverse effects due to significant increase in exposure. The commenter also noted that any adverse effects from the use of chitosan in minimum risk pesticide products would not be required to be reported under FIFRA section 6(a)(2). This would include adverse effects to humans, domestic animals, and the environment, such as bee kills.

2. *EPA response.* Reporting under FIFRA section 6(a)(2) is outside the scope of this rulemaking, as it applies to the minimum risk exemption in general. EPA acknowledges that the FIFRA section 6(a)(2) reporting requirement is limited to registered pesticides, and that minimum risk pesticide products, which are not registered, would not be subject to this requirement. Substances placed on the minimum risk list are not expected to present significant hazard to humans or non-target organisms. The available data do not indicate that chitosan or its salts present a significant hazard to bees or other insects.

3. *Comment.* One commenter states that a search of the Food and Drug Administration (FDA) inventory of Generally Recognized as Safe (GRAS) Notices indicates that chitosan does not have FDA GRAS status under 21 CFR 170.36. Another commenter wrote that chitosan is used in pharmaceutical manufacturing and as a supplement and the FDA has approved chitosan as safe for use in food in drugs, and that the chemical is not considered hazardous by the Occupational Safety and Health Administration.

4. *EPA response.* While the Agency does consider whether a substance is recognized by the FDA as safe (see *e.g.,* 61 FR 8876, March 6, 1996 (FRL–4984–8)), whether or not a substance is GRAS is not necessarily dispositive. GRAS status is initiated via a notification to the Food and Drug Administration from a company, so the lack of GRAS status may not reflect safety. (Ref. 9). In EPA's previous science review (Ref. 10), the Agency identified that a fungal based chitosan derived from *Aspergillus niger* has GRAS status. The status pertains to the specific intended conditions of use as a secondary direct food ingredient in the manufacture of alcoholic beverages. The EPA acknowledges that other forms of chitosan (*e.g.,* chitosan derived from crustacea) do not have GRAS designations.

5. *Comment.* The commenter also noted that there may be allergenicity concerns for exempted chitosan products. Chitosan products which are currently registered by the EPA have undergone the EPA registration process and are produced by entities registered with the EPA as pesticide producing establishments. The commenter expressed a concern that if chitosan is added to the list of exempted active ingredients, products will be produced using inadequate extraction and purification processes and will contain chitosan of substandard purity and composition. According to the commenter, such products may be quite harmful to individuals with allergies. The commenter wrote that there may be little concern for allergenic response following exposure to highly purified chitosan, but that there is no control over the production and resulting level of purity for EPA exempted products.

6. *EPA response.* Allergenicity concerns were addressed in the assessment supporting the original proposed rule (Ref. 10), which discussed the manufacturing process for chitosan and some reports related to potential allergenicity. As noted in that assessment, industrially-manufactured chitosan is not likely to have allergenicity concerns provided that all animal proteins are removed during the extraction and purification process from chitin. The manufacturing process that involves demineralization with hydrochloric acid, protein removal with sodium hydroxide and a final extraction with organic solvents is likely sufficient to remove and/or denature any proteins, fats and other contaminants of allergenic or other toxic concern. While there has been research into other methods of manufacturing chitosan, this process is understood to be the industry standard and other methods have not been shown to be viable on the scale required to produce chitosan at its current level of demand. Presence of materials (*e.g.,* shellfish proteins) that are not listed as active or inert ingredient eligible to be used in a minimum risk pesticide product would make a product ineligible for the exemption. It is also noted that although chitosan is not a food, it has numerous food related uses and is frequently consumed as a dietary supplement.

7. *Comment.* One commenter noted that EPA's statement in the proposal stated that ''no increased risk to human health or the environment is expected from chitosan,'' is based on current use patterns and use rates of chitosan. The commenter believes it is impossible to know what future uses may be developed. In addition, currently registered chitosan products with a relatively low percentage of active ingredient (0.25%) bear labeling which warns of moderate eye irritation. All EPA registered chitosan products have extensive First Aid Statements regarding eye and skin protection. Agricultural

products bear extensive Personal Protective Equipment (PPE) requirements for applicators, mixers and loaders which include long sleeved shirt, long pants, waterproof gloves and protective eyewear. Minimum risk pesticide products are exempt from the Worker Protection Standard and they are not required to have any precautionary and first aid statements. Therefore, the commenter believes it is highly likely that there will be significant exposure if chitosan is added to the list of permitted active ingredients for minimum risk pesticide products. According to the commenter, increase in use with additional use patterns and potentially higher concentrations with unknown purity without the current precautionary and first aid label statements will result in significant exposure.

8. *EPA response.* The Agency understands that with the addition of chitosan to the minimum risk pesticides active ingredient list, the uses and application rates could be expanded. However, EPA notes that the uses for currently registered agricultural products are extensive. The Agency has also registered products containing chitosan for antimicrobial uses to control odor causing, spoilage, and discoloration for microbes on textiles and surfaces which present additional exposure pathways that have been determined to not present risk to human health or the environment. The percentage of chitosan in end use products currently ranges from 0.05% to 85%, and chitosan is present at <5% in most products upon application. Agricultural application rates range from 0.11–2.5 lbs active ingredient (AI)/Acre for foliar sprays, 0.24–2.5 lbs AI/Acre for chemigation, and 0.11–0.33 lbs AI/10 gallons for seed treatments based on the end-use products (EP) use sites (Ref. 8). With respect to the commenter's contention that registered chitosan products have extensive First Aid Statements regarding eye and skin protection, EPA notes that precautionary language on registered product labels is based on the acute toxicity profile of the entire EP formulation, which is the active and inert ingredients. These inert ingredients may be contributing to the toxicity profile. EPA acknowledges that an acute eye irritation study done on a 99.9% chitosan MP was moderately irritating (Tox Cat III). This could result in eye irritation due to incidental exposure (splashing) when handling the 85% undiluted end product, but not once products are diluted and being applied.

9. *Comment.* A commenter notes that there is one CAS No. for ''Chitosan'' listed in the petition, but that it is widely reported that this or similar materials are available in a range of varieties (*e.g.,* different molecular weights), are often modified or made into chemical derivatives, or otherwise complexed with other materials (*e.g.,* metal ions) to change the functional properties or to increase or change functional activity. Given that these modifications can significantly alter the functionality and by extension, the pesticidal activity, the commenter believes it is incumbent upon the EPA to consider and address how the limits or boundaries of the use of such a raw material and the possible derivations of it would be regulated and enforced as being exempt.

10. *EPA response.* The status of chitosan salts is discussed in more detail in Unit III.A. EPA notes that the listing for chitosan refers specially to poly-D-glucosamine (CAS Reg. No. 9012–76–4). The specifications that EPA is including in the regulatory text would include chitosan salts formed by solubilization with acids from the minimum risk pesticide active or inert ingredient lists and would not include other chitosan derivatives. For a more detailed discussion of molecular weight, please see the addendum to the science review in support of the addition of chitosan to the list of minimum risk pesticides contained in 40 CFR 152.25(f) (Ref. 8).

11. *Comment.* One commenter stated that chitosan's safety has not been thoroughly studied and there are still many unknowns. The commenter further stated it is not known whether chitosan is safe to take by women who are pregnant or breastfeeding and most doctors advise pregnant women to avoid products that contain it. Additionally, the commenter believes chitosan has the potential to interfere with how blood thinners work in your body.

12. *EPA response.* The risk assessments performed on chitosan and chitosan salts determined that there are no hazard concerns in humans associated with pesticidal use of chitosan. Exposure is expected to be incidental when chitosan is used as a pesticide with good agricultural practices and would not include exposure amounts that would be expected to result from intentional ingestion. Chitosan is frequently consumed as a dietary supplement, is also included as a component of drugs, and it is exempted from the requirement of a tolerance on food and feed when used in pesticide products. While there are websites that recommend against chitosan intake by pregnant women, there is no information available to the Agency to evaluate these recommendations or their scientific basis. Additionally, the Agency is not aware of any adverse developmental or reproductive toxicity effects from exposure to chitosan at doses relevant to pesticide risk assessment and did not find reports of developmental effects in an extensive search of the public literature. With respect to chitosan's interactions with anticoagulants, EPA was able to find only one study in the literature that described a possible potentiation of warfarin's effect in an 83-year-old male consuming 1,200 mg of chitosan twice per day (Ref. 11). There are no other reported incidents of this effect in the scientific literature, and little additional information on this potential interactive effect is available.

C. Costs, Benefits, and Implementation Concerns

1. *Comment.* One commenter expressed a concern that the proposal underestimates costs associated with minimum risk pesticides, noting that numerous states are now requiring generation of additional data as a condition of state registration which obviates financial and regulatory relief described in the proposal. The commenter states that it is confusing as to why this was noted in the Cost Analysis document but was not discussed in the proposal itself. Another commenter noted that the main reason given to add chitosan, and other active ingredients, to the list of active ingredients allowed in minimum risk pesticide products is to save money associated with EPA fees established under the Pesticide Registration Improvement Extension Act (PRIA fees) and registration maintenance fees, as well as saving EPA resources that would be used reviewing and registering pesticide products of minimum concern. The commenter believes the aforementioned burden of review and registration is shifted to the states. The commenter states that currently, only nine states do not require state registration of minimum risk pesticide products. According to the commenter, the amount of time, effort and resources expended by the states for the review and registration of minimum risk pesticide products is compounded due to the lack of central EPA oversight.

2. *EPA response.* These comments are generic to the minimum risk exemption and therefore outside the scope EPA's proposal to add chitosan to the list of active ingredients allowed in minimum risk pesticide products. EPA notes that on April 8, 2021 (Ref. 12), EPA

published an advanced notice of proposed rulemaking (ANPRM) that requested public comment on, among other things, modifications to the existing regulations at 40 CFR 152.25, including the exemption for minimum risk products. EPA is currently evaluating these public comments and considering potential program improvements that the Agency could propose, and EPA will consider this comment as part of that evaluation. The concerns commenters are raising could apply equally to any of the active or inert ingredients eligible for use in minimum risk pesticide products, as well as any future ingredient. While EPA is currently evaluating potential improvements it could propose for the minimum risk pesticide program, the Agency is not considering a moratorium on adding ingredients to these lists pending completion of that effort.

EPA notes that in the Cost Analysis (Ref. 4), the Agency acknowledges that the impact on state regulatory costs is uncertain—states have wide variability in how they regulate pesticides that are registered by EPA versus FIFRA section 25(b) pesticide products. Because the Agency does not review labels of FIFRA section 25(b) products, states may see an increased burden associated with enforcing the conditions for labeling products containing chitosan. EPA also noted in that document that some states require registration of FIFRA section 25(b) products. If the Petitioner or another entity wants to sell their product in these states, they may face data generation costs similar to those that would be imposed by EPA for a national registration, potentially eliminating or reducing the savings described in the Cost Analysis. The Petitioner could avoid these costs but would forego marketing in those states.

3. *Comment.* A commenter also states that there are currently numerous registered FIFRA products containing chitosan and it is unlikely that the registrants of these products will cancel or discontinue their registrations due to the costs already incurred. The commenter believes it is unclear whether state lead agencies will register a minimum risk pesticidal product containing the same active ingredient as a FIFRA-registered product, or at least require additional testing to support the state registration. This would again incur additional costs or burden not adequately captured in the proposed rule.

4. *EPA response.* This rule will not affect the status of already registered products or create additional costs for already registered products. Additionally, state requirements for additional testing are not affected by this rule.

D. Miscellaneous Comments

1. *Comment.* One commenter noted concerns regarding inappropriate use and claims for the control of bacteria and mold. The commenter states that chitosan is currently registered as an antimicrobial pesticide active ingredient to inhibit growth of bacteria, mold, mildew, and fungi. The commenter is concerned that exempt products will be produced with false and misleading statements regarding efficacy against bacteria or for mold remediation.

2. *EPA response.* Per the requirements of 40 CFR 152.25(f) minimum risk pesticide are subject to certain restrictions. Products that do not meet these requirements would not be eligible for the exemption. One such restriction prohibits minimum risk products from bearing claims to control any microorganism that pose a threat to human health. However, some types of claims regarding microorganisms can meet the conditions of the minimum risk exemption. An example would be an antimicrobial pesticide product that bears a claim to control microorganisms of economic or aesthetic significance, and the presence of the microorganism would not normally lead to infection or disease in humans.

3. *Comment.* One commenter expressed a concern regarding the potential for false or misleading claims on chitosan products, should chitosan be added the active ingredient list for minimum risk pesticides. The commenter writes that chitosan used in pesticide products is not a naturally occurring substance and must be chemically derived. Therefore, industrially manufactured chitosan would not be considered ''organic'' or ''natural'' and such claims would be false and misleading.

4. *EPA response.* This comment is outside the scope EPA's proposal to add chitosan to the list of active ingredients allowed in minimum risk pesticide products. The commenter's concern could apply equally to any minimum risk pesticide product and is not specific to those containing chitosan. By way of background, EPA does note that per the requirements of 40 CFR 152.25(f)(3)(iv) the labels of minimum risk product cannot include any false or misleading statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii). However, EPA acknowledges that 40 CFR 156.10(a)(5)(x) which prohibits ''[n]on-numerical and/or comparative statements on the safety of the product, including but not limited to: (A) 'Contains all natural ingredients'; (B) 'Among the least toxic chemicals known' [or] (C) 'Pollution approved''' does not directly apply to minimum risk products, but EPA notes that 40 CFR 152.25(f)(3)(iv) contains a general prohibition on false or misleading statements.

5. *Comment.* One commenter writes that given that chitosan is currently on the FIFRA inert ingredients list and is approved for non-food use, it is unclear how a registrant or state lead agency would determine whether chitosan is acting as an active ingredient or inert. This is an area that the states lead agencies have expressed as particularly challenging with inert ingredients and the proposal does not address this consideration. If the material is considered exempt from FIFRA regulation only as an active ingredient and not as an inert ingredient, then this question carries significant importance in determination of whether a product containing it is considered exempt or not from FIFRA regulation.

6. *EPA response.* The commenter is correct that the active ingredient and inert ingredient lists are not interchangeable. Unless the ingredient appears on both lists, it can only be used based on the list it appears on. So, in this case, chitosan may only be used in minimum risk pesticide products as an active ingredient. The regulations at 40 CFR 152.3 define an active ingredient to mean, in relevant part, ''any substance . . . that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant . . . .'' An inert ingredient means ''any substance . . . other than an active ingredient, which is intentionally included in a pesticide product . . . .'' Accordingly, chitosan in minimum risk pesticide products must prevent, destroy, repel or mitigate a pest, or function as a plant regulator, desiccant, or defoliant.

7. *Comment.* One commenter suggested that adding chitosan to the list of minimum risk active ingredients would have the effect of switching the burden to the states. The commenter believes that maintaining EPA's registration and central oversight would be the best option. The commenter suggested the creation of separate lower fee PRIA categories to review and register chitosan and other minimum risk pesticide products.

8. *EPA response.* This comment raises generic issues with the Minimum Risk Pesticide Program that go beyond the specific issues raised in this rulemaking, namely the addition of chitosan and chitosan salts to the list of active ingredients. As previously noted, EPA published an ANPRM that requested

public comment on, amongst other things, modifications to the existing regulations at 40 CFR 152.25, including the exemption for minimum risk products (Ref. 12). EPA is currently evaluating these public comments and considering potential program improvements that the Agency could propose, and EPA will consider this comment as part of that evaluation.

9. *Comment.* The commenter states that some agricultural and commercial pesticide users are hesitant to use products that are not EPA registered because there is a question as to whether the products are compliant with all exemption criteria. The commenter states that the lack of an easily identifiable EPA Registration Number and associated product label is very problematic because it is difficult to ascertain whether a product is legal and compliant.

10. *EPA response.* This comment also raises generic issues with the Minimum Risk Pesticide Program that go beyond the specific issues raised in this rulemaking, namely the addition of chitosan and chitosan salts to the list of active ingredients. As previously noted, EPA is currently evaluating these public comments on the ANPRM (Ref. 12) and considering potential program improvements that the Agency could propose, and EPA will consider this comment as part of that evaluation.

11. *Comment.* One commenter notes that minimum risk pesticide products are not covered under the EPA provisions which protect confidential business information (CBI).

12. *EPA response.* In general, EPA would not routinely be in possession of confidential business information on minimum risk pesticide products because such products are not reported to EPA. Regardless, the Agency disagrees with the commenter that minimum risk pesticide products are not protected by the business confidentiality provisions in FIFRA section. Exemption of pesticides under section 25(b) pertains to ''the requirements of this subchapter [FIFRA]''. That does not leave companies bereft of the confidentiality protections in FIFRA section 10.

13. *Comment.* Another commenter suggested that EPA correct an apparent spelling error on its website for ''Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products.'' On this website list, the name for CAS No. 6132–04–3 is listed as Trisodium citrate dehydrate (as label display name) and Citric acid, trisodium salt, dehydrate (as the chemical name). However, in 40 CFR 180.950(e) the CAS No. 6132–04–3 is associated with Citric acid, trisodium salt, dihydrate. The comment suggests that the ''dehydrate'' on the website be changed to be ''dihydrate'' in conformance with the regulations.

14. *EPA response.* This comment is outside of the scope of the proposed rulemaking. However, in reviewing the comment, EPA has determined the commenter is correct in that there is a typographical error and that the correct label display name associated with CAS No. 6132–04–3 should be ''Trisodium citrate dihydrate''. EPA notes that the website the commenter is referring to merely duplicates the list of inert ingredients codified at 40 CFR 152.25(f)(2)(iv), where CAS No. 6132–04–3 is associated with the label display name ''Trisodium citrate dehydrate'' and the chemical name ''Citric acid, trisodium salt, dehydrate.'' EPA did not propose to make any change to the entry for this chemical, but because this is purely a typographical error, EPA is correcting that error in this action.

IV. References

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

1. EPA. Pesticides; Proposal to Add Chitosan to the List of Active Ingredients Permitted in Exempted Minimum Risk Pesticide Products; Proposed Rule. **Federal Register**. 85 FR 69307, November 2, 2020 (FRL–10009–24).
2. Tidal Vision Products, LLC. Petition to list the material Chitosan CAS# 9012–76–4 on the U.S. EPA FIFRA Minimum Risk List 40 CFR 152.25(f). October 10, 2018.
3. Tidal Vision Products, LLC. Amendment to the Petition to add Chitosan to the Minimum Risk Pesticide Inert Ingredient List at the same time as adding Chitosan to the Minimum Risk Pesticide Active Ingredient List; Re: Petition to list the material Chitosan CAS# 9012–76–4 on the U.S. EPA FIFRA Minimum Risk Pesticide List 40 CFR 152.25(f). April 4, 2019.
4. EPA. Cost Analysis of the Proposed Modification to the Minimum Risk Pesticide Listing Program. Prepared by Biological and Economic Analysis Division, Office of Pesticide Programs. July 2020.
5. EPA. Pesticides; Proposal to Add Chitosan to the List of Active Ingredients Permitted in Exempted Minimum Risk Pesticide Products; Notice of Data Availability on Chitosan and Chitosan Salts; Notification of data availability. **Federal Register**. 87 FR 27059, May 6, 2022 (FRL–7542–03–OCSPP).
6. Tidal Vision USA. Aquatic Toxicology Report by Eurofins Environmental Testing Test America. Lab I.D. No. B4345. Report Date: June 17, 2019. EPA Master Record Identification (MRID) 51861901.
7. Tidal Vision USA. Aquatic Toxicology Report by Eurofins Environmental Testing Test America. Lab I.D. No. B4421. Report Date: August 28, 2019. EPA Master Record Identification (MRID) 51861902.
8. EPA. Addendum to the science review in support of the addition of chitosan (Poly-D-Glucosamine) to the list of minimum risk pesticides (MRPs) contained in 40 CFR 152.25(f). September 2022.
9. FDA. Intended for Use in Human Food or Animal Food on the Basis of the Generally Recognized as Safe (GRAS) Provision of the Federal Food, Drug, and Cosmetic Act: Guidance for Industry. November 2017. Available at *https://www.fda.gov/media/109117/download.*
10. EPA. Science review in support of the addition of Chitosan (Poly-D-Glucosamine) to the list of minimum risk pesticides (MRPs) contained in 40 CFR 152.25(f). August 23, 2019.
11. Huang, S. S., Sung, S. H., & Chiang, C. E. (2007). Chitosan potentiation of warfarin effect. The Annals of Pharmacotherapy, 41(11), 1912–1914. November 1, 2007. Available at *https://doi.org/10.1345/aph.1K173.*
12. EPA. Pesticides; Modification to the Minimum Risk Pesticide Listing Program and Other Exemptions Under FIFRA Section 25(b); **Federal Register**. 86 FR 18232, April 8, 2021 (FRL–10016–29).

V. FIFRA Review Requirements

In accordance with FIFRA section 25(a), EPA submitted a draft of this final rule to the United States Department of Agriculture (USDA) and the FIFRA Scientific Advisory Panel (SAP) for review. A draft of the rule was also submitted to the appropriate Congressional Committees.

USDA responded without comments on October 7, 2022. The FIFRA SAP waived its scientific review of this rule on October 13, 2022, because the rule does not contain scientific issues that warrant review by the Panel.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review; and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not

submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection requirements that would require additional review or approval by OMB under the PRA, 44 U.S.C. 3501 *et seq.* The information collection activities required under the exemption are covered by an existing Information Collection Request (ICR), entitled ''Labeling Requirements for Certain Minimum Risk Pesticides under FIFRA Section 25(b),'' approved under OMB Control No. 2070–0187 and identified by EPA ICR No. 2475. The existing ICR estimates the burden of displaying mandatory active and inert ingredient and producer information on the labels of minimum risk pesticide products. To maintain exemption status, an exempt pesticide product must display the following information on its label; the label display name and the percentage (by weight) of all active ingredients, the label display name of all inert ingredients, and the name of the producer or the company for whom the product was produced, along with the producer/company's contact information. Labels provide important regulatory information for the Federal, State, and Tribal authorities that regulate or enforce minimum risk pesticide products.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities, and the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden. This action adds substances to the list of active ingredients allowed in exempted minimum risk pesticide products reduces existing regulatory burden and will not have a significant economic impact on a substantial number of small entities. The cost savings are summarized in Unit I.E. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or Tribal governments because there are no known instances where such governments currently produce any pesticides such that they would be subject to this rulemaking. Accordingly, this action is not subject to the requirements of UMRA.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have any effect on Tribal governments, on the relationship between the Federal Government and the Indian tribes, or the distribution of power and responsibilities between the Federal Government and Indian tribes. Currently, there are no known instances where a Tribal government is the producer of a minimum risk pesticide product exempt from regulation.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866 and because this action has not otherwise been designated as a significant energy action by the Administrator of the Office of Information and Regulatory Affairs.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards as specified in NTTAA section 12(d), 15 U.S.C. 272 note.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special consideration of environmental justice issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994) and Executive Order 14008 (86 FR 7619, January 27, 2021), because this rule does not establish an environmental health or safety standard.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 152

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

Dated: October 21, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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

PART 152—PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES

■ 1. The authority citation for 40 CFR part 152 continues to read as follows:

Authority: 7 U.S.C. 136–136y; Subpart U is also issued under 31 U.S.C. 9701.

■ 2. Amend § 152.25 by:

■ a. Adding alphabetically the entry ''Chitosan'' to table 1 to paragraph (f)(1); and

■ b. Removing the entry for ''Trisodium citrate dehydrate'' and adding in its place the entry ''Trisodium citrate dihydrate'' in table 2 to paragraph (f)(2).

The addition and revision read as follows:

§ 152.25 Exemptions for pesticides of a character not requiring FIFRA regulation.

* * * * *

(f) * * *

(1) * * *

TABLE 1—ACTIVE INGREDIENTS PERMITTED IN EXEMPTED MINIMUM RISK PESTICIDE PRODUCTS

Label display name	Chemical name	Specifications	CAS No.
*	*	*	*
Chitosan	Poly-D-glucosamine	Includes chitosan salts (consisting solely of those salts that can be formed with the acids listed in this table or table 2 to paragraph (f)(2) of this section).	9012–76–4
*	*	*	*

(2) * * *

TABLE 2—INERT INGREDIENTS PERMITTED IN MINIMUM RISK PESTICIDE PRODUCTS

Label display name	Chemical name	CAS No.
*	*	*
Trisodium citrate dihydrate	Citric acid, trisodium salt, dihydrate	6132–04–3
*	*	*

* * * * *

[FR Doc. 2022–23682 Filed 11–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0084; FRL–10295–01–OCSPP]

Acetic Acid, 2-Ethylhexyl Ester; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of acetic acid, 2-ethylhexyl ester (CAS Reg. No. 103–09–3) when used as an inert ingredient (solvent/cosolvent) at a concentration not to exceed 50% in pesticide formulations applied to growing crops. SciReg, Inc., on behalf of Solvay USA Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of acetic acid, 2-ethylhexyl ester, when used in accordance with the terms of the exemption.

DATES: This regulation is effective November 8, 2022. Objections and requests for hearings must be received on or before January 9, 2023, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0084, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Daniel Rosenblatt, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–2875; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure

proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0084 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before January 9, 2023. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0084, by one of the following methods:

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

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

II. Petition for Exemption

In the **Federal Register** of June 8, 2017 (82 FR 26641) (FRL–9961–14), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11014) by SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192 on behalf of Solvay USA Inc., 504 Carnegie Center, Princeton, NJ 08540. The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of acetic acid, 2-ethylhexyl ester (CAS Reg. No. 103–09–3) when used as an inert ingredient (solvent/co-solvent) in pesticide formulations at no more than 50% when applied to growing crops only under 40 CFR 180.920. That document referenced a summary of the petition prepared by SciReg, Inc., on behalf of Solvay USA Inc., the petitioner, which is available in the docket, *https://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

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

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. When making a safety determination for an exemption for the requirement of a tolerance FFDCA section 408(c)(2)(B) directs EPA to consider the considerations in section 408(b)(2)(C) and (D). Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .'' Section 408(b)(2)(D) lists other factors for EPA consideration making safety determinations, *e.g.,* the validity, completeness, and reliability of available data, nature of toxic effects, available information concerning the cumulative effects of the pesticide chemical and other substances with a common mechanism of toxicity, and available information concerning aggregate exposure levels to the pesticide chemical and other related substances, among others.

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by acetic acid, 2-ethylhexyl ester as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The toxicological database of acetic acid, 2-ethylhexyl ester is supported by data on the oxy-alkyl acetates and 2-

ethyl-1-hexanol. EPA has determined that it is appropriate to bridge the data due to similarities in the manufacturing processes, functional groups/structure, composition, and physical/chemical properties of these chemicals.

Based on the results of surrogate data, acetic acid, 2-ethylhexyl ester is expected to exhibit low levels of acute toxicity via the oral, dermal, and inhalation routes of exposure. In the rat, the oral LD_{50} is 5,000 mg/kg, the dermal LD_{50} is 3,160 mg/kg and the inhalation LC is >1,100 ppm. Studies showed slight/moderate skin and eye irritation and no protein binding alerts for skin sensitization were found.

Two oral subchronic studies, a subchronic inhalation study, and a developmental study conducted using surrogate chemicals were evaluated. In a 28-day gavage study in rats with oxo-hexyl acetate, no effects were seen up to the limit dose of 1,000 mg/kg/day. A 90-day study gavage study in rats with oxo-octyl acetate showed kidney effects (mild tubular nephropathy) in high-dose males only at the LOAEL of 1,000 mg/kg/day. The 90-day inhalation study in rats with 2-ethyl-1-hexanol showed no effects up to the highest dose tested (638.4 mg/m^3).

In a developmental toxicity study, oxo-octyl acetate was administered by gavage to pregnant female rats. Decreased maternal body weight and food consumption, as well as fetal vertebral malformations, were noted at 1,000 mg/kg/day only. Two animals in the high dose group died, no etiology was given. The developmental and maternal systemic NOAEL was 500 mg/kg/day, and the LOAEL was 1,000 mg/kg/day.

No evidence of neurotoxicity or immunotoxicity was reported. Furthermore, concern for carcinogenicity is low based on negative results in mutagenicity studies, and the lack of structural alerts for carcinogenicity.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program.*

The hazard profile of acetic acid, 2-ethylhexyl ester is adequately defined. Overall, acetic acid, 2-ethylhexyl ester is of low acute, subchronic, and developmental toxicity. No systemic toxicity was observed at doses that are relevant for risk assessment (*i.e.,* doses below 1,000 mg/kg/day). Since signs of toxicity were not observed below 1,000 mg/kg/day, no toxicological endpoints of concern or PODs were identified. Therefore, a qualitative risk assessment for acetic acid, 2-ethylhexyl ester can be performed.

C. Exposure Assessment

1. Dietary exposure from food and feed uses. In evaluating dietary exposure to acetic acid, 2-ethylhexyl ester, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from acetic acid, 2-ethylhexyl ester in food as follows:

Dietary exposure (food and drinking water) to acetic acid, 2-ethylhexyl ester may occur following ingestion of foods with residues from their use in accordance with this exemption. However, a quantitative dietary exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

2. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). Acetic acid, 2-ethylhexyl ester may be present in pesticide and non-pesticide products that may be used in and around the home. However, a quantitative residential exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

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

Based on the lack of toxicity below the limit dose, EPA has not found acetic acid, 2-ethylhexyl ester to share a common mechanism of toxicity with any other substances, and acetic acid, 2-ethylhexyl ester does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that acetic acid, 2-ethylhexyl ester does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

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

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

Because there were no adverse effects below 1,000 mg/kg/day associated with acetic acid, 2-ethylhexyl ester, EPA conducted a qualitative assessment. As part of that assessment, the Agency did not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children. Based on an assessment of acetic acid, 2-ethylhexyl ester, EPA has concluded that there are no toxicological endpoints of concern for

the U.S. population, including infants and children.

E. Aggregate Risks and Determination of Safety

Because no toxicological endpoints of concern were identified below the limit dose, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to acetic acid, 2-ethylhexyl ester residues.

V. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of acetic acid, 2-ethylhexyl ester in or on any food commodities. EPA is establishing a limitation on the amount of acetic acid, 2-ethylhexyl ester that may be used in pesticide formulations applied pre-harvest. This limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 50% acetic acid, 2-ethylhexyl ester in the final pesticide formulation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established for residues of acetic acid, 2-ethylhexyl ester (CAS Reg. No. 103–09–3) when used as an inert ingredient (solvent/co-solvent) at a maximum of 50% by weight in pesticide formulations applied to growing crops only under 40 CFR 180.920.

VII. Statutory and Executive Order Reviews

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

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

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

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: October 31, 2022.

Jennifer Saunders,

Acting Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.920, amend table 1 by adding, in alphabetical order, an entry for ''Acetic acid, 2-ethylhexyl ester (CAS Reg. No. 103–09–3)'' to read as follows:

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

* * * * *

TABLE 1 TO 180.920

Inert ingredients	Limits	Uses
Acetic acid, 2-ethylhexyl ester (CAS Reg. No. 103–09–3)	Not to exceed 50% by weight in pesticide formulation	Solvent/Co-solvent.
* * *	* * *	*

[FR Doc. 2022–23997 Filed 11–7–22; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2022–0363; FRL–10247–01–OCSPP]

Nitric Acid; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of nitric acid (CAS Reg. No. 7697–37–2) when used as an inert ingredient (pH adjuster) applied to crops and raw agricultural commodities pre- and post-harvest, limited to no more than 10% by weight in the pesticide formulation. Technology Sciences Group, Inc. on behalf of Organisan Corporation, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of nitric acid when used in accordance with the terms of the exemption.

DATES: This regulation is effective November 8, 2022. Objections and requests for hearings must be received on or before January 9, 2023, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2022–0363, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2022–0363 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 9, 2023. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b), although the Office of the Administrative Law Judges, which houses the Hearing Clerk, encourages parties to file objections and hearing requests electronically. *See https://www.epa.gov/sites/default/files/2020-05/documents/2020-04-10_-_order_urging_electronic_service_and_filing.pdf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2022–0363, by one of the following methods:

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

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

II. Petition for Exemption

In the **Federal Register** of June 22, 2022 (87 FR 37287) (FRL–9410–02), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11643) by Technology Sciences Group, Inc., 1150 18th Street NW, Suite 1000 Washington, DC 20036 on behalf of Organisan Corporation, P.O. Box 2085, Carrollton, GA 30112. The petition requested that 40 CFR be amended by establishing an exemption from the requirement of a tolerance for residues of nitric acid (CAS Reg. No. 7697–37–2) when used as an inert ingredient (pH adjuster) in pesticide formulations applied to crops and raw agricultural commodities pre- and post-harvest, limited to no more than 10% by weight in the pesticide formulation under 40 CFR 180.910. That document referenced a summary of the petition prepared by Technology Sciences Group, Inc. on behalf of Organisan Corporation, the petitioner, which is available in the docket, *https://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of

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

IV. Aggregate Risk Assessment and Determination of Safety

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

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by nitric acid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Nitric acid is a highly corrosive inorganic acid. In a concentrated form, nitric acid is corrosive at the site of contact and does not elicit systemic toxicity. There is limited acute and no repeated dose studies on the toxicity of dilute forms of nitric acid following oral exposure. However, the toxicity of dilute nitric acid is expected to result from the formation of nitrate. Sodium nitrate is a water soluble inorganic salt that readily dissociates into sodium and the nitrate anion (NO_3^-). Therefore, toxicity data on sodium nitrate were used to characterize toxicity due to exposure to nitric acid.

The acute inhalation toxicity of nitric acid is low at concentrations ≤70%. The lethal concentration is greater than 2.65 milligrams/liter (mg/L) in acute inhalation studies with nitric acid. Based on acute toxicity data on sodium nitrate, nitric acid is expected to have low oral acute toxicity. No acute data are available on the dermal route of exposure, eye and dermal irritation, and skin sensitization potential of nitric acid due to its corrosive nature at high concentrations.

Several repeated dose studies were available for sodium nitrate. In a 6-week oral toxicity study in rats, sodium nitrate was administered in the diet. The only effect observed was decreased body weight gain at 2,500 milligrams/kilogram/day (mg/kg/day), which is not considered adverse. There were no increased incidences in tumor formation in multiple carcinogenicity studies in rats and mice up to the highest dose tested (5,000 mg/kg/day in mice and 2,500 mg/kg/day in rats). Also, there were no treatment related maternal, reproductive or developmental effects observed in multiple reproduction and developmental toxicity studies in rats, mice, hamsters, and rabbits up to the highest doses tested (41 mg/kg/day in mice and hamsters and 66 mg/kg/day in rats and rabbits).

There were several human epidemiological data available for review. In these studies, sodium nitrate concentrations were evaluated in water sources for reported cases of children with cyanosis due to methemoglobinemia. Overall, studies found that wells used to supply water to children with cyanosis due to methemoglobinemia contained nitrate levels >1.8 mg/kg/day. Methemoglobinemia was not observed in infants consuming water containing less than 1.6 mg/kg/day of sodium nitrate.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program.*

There were no effects that could be attributed to a single dose in the database. Therefore, an acute oral POD was not selected. Chronic dietary, incidental oral, dermal and inhalation short- and intermediate-term exposures were based on the POD of 1.6 mg/kg/day, based on the concentration of sodium nitrate (1.6 mg/kg/day) in water at which methemoglobinemia was not observed in infants.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to nitric acid, EPA considered exposure that may occur from the existing and proposed uses of nitric acid. EPA assessed dietary exposures from nitric acid in food as follows:

No adverse effects attributable to a single dietary exposure of nitric acid were seen in the toxicity databases. Therefore, an acute dietary risk assessment is not necessary.

In conducting the chronic dietary exposure assessment using the Dietary Exposure Evaluation Model DEEM–FCIDTM, Version 4.02, EPA used food consumption information from the U.S. Department of Agriculture's (USDA's) 2005–2010 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, no residue data were submitted for nitric acid. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high use insecticides, herbicides, and fungicides. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Update to D361707: Dietary Exposure and Risk Assessments for the Inerts.'' (12/21/2021) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2018–0090.

In the dietary exposure assessment, the Agency assumed that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation (if any) between the active and inert ingredient and that the concentration of inert ingredient in the scenarios leading to these highest levels of tolerances would be no higher than the concentration of the active ingredient.

The Agency believes the assumptions used to estimate dietary exposures lead to an extremely conservative assessment of dietary risk due to a series of compounded conservatisms.

First, assuming that the level of residue for an inert ingredient is equal to the level of residue for the active ingredient will overstate exposure. The concentrations of active ingredient in agricultural products are generally at least 50 percent of the product and often can be much higher. Further, pesticide products rarely have a single inert ingredient; rather there is generally a combination of different inert ingredients used which additionally reduces the concentration of any single inert ingredient in the pesticide product in relation to that of the active ingredient.

Second, the conservatism of this methodology is compounded by EPA's decision to assume that, for each commodity, the active ingredient which will serve as a guide to the potential level of inert ingredient residues is the active ingredient with the highest tolerance level. This assumption overstates residue values because it would be highly unlikely, given the high number of inert ingredients, that a single inert ingredient or class of ingredients would be present at the level of the active ingredient in the highest tolerance for every commodity. Finally, a third compounding conservatism is EPA's assumption that all foods contain the inert ingredient at the highest tolerance level. In other words, EPA assumed 100 percent of all foods are treated with the inert ingredient at the rate and manner necessary to produce the highest residue legally possible for an active ingredient. In summary, EPA chose a very conservative method for estimating what level of inert residue could be on food, then used this methodology to choose the highest possible residue that could be found on food and assumed that all food contained this residue. No consideration was given to potential degradation between harvest and consumption even though monitoring data shows that tolerance level residues are typically one to two orders of magnitude higher than actual residues in food when distributed in commerce.

Accordingly, although sufficient information to quantify actual residue levels in food is not available, the compounding of these conservative assumptions will lead to a significant exaggeration of actual exposures. EPA does not believe that this approach underestimates exposure in the absence of residue data. EPA did assume that nitric acid will be limited to 10% in pesticide non-residential formulations that will be applied to crops and raw agricultural commodities pre- and post-harvest.

2. *Dietary exposure from drinking water.* For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for nitric acid, a conservative drinking water concentration value of 100 ppb based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, for lawn and garden pest control, indoor pest control, termiticides, flea and tick control on pets and hard surface disinfection on walls, floors, tables).

Short-term residential exposure for adults combines high end dermal and inhalation handler exposure from indoor hard surface, aerosol sprays with a high-end post application dermal exposure from contact with treated lawns and results in an MOE of 6.2. Short-term residential exposure for children includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures) and results in an MOE of 20.

Intermediate-term residential exposure for adults includes high-end post application dermal exposure from contact with treated lawns and results in an MOE of 148. Intermediate-term residential exposure for children includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures) and result in an MOE of 11.

Because EPA's level of concern for nitric acid is an MOE below 1 these MOEs are not of concern.

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

EPA has not found nitric acid to share a common mechanism of toxicity with any other substances, and nitric acid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that nitric acid does not have

a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

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

The Agency has concluded that there is reliable data to determine that infants and children will be safe if the FQPA SF of 10x is reduced to 1X for the chronic dietary assessment for the following reasons. The toxicity database for nitric acid is adequate as it is based on the use of sodium nitrate data for which there is a robust toxicity database. The NOAEL used for risk assessment was derived from the critical toxic effect in the most sensitive human subpopulation (infants ages 8 days to 5 months). There is no indication of immunotoxicity or neurotoxicity in the available studies. Additionally, no offspring susceptibility or reproduction toxicity was observed in the available studies. Based on the adequacy of the toxicity database, the conservative nature of the exposure assessment and the lack of concern for prenatal and postnatal sensitivity, the Agency has concluded that there is reliable data to determine that infants and children will be safe if the FQPA SF of 10X is reduced to 1X.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, nitric acid is not expected to pose an acute risk.

2. *Chronic risk.* A chronic aggregate risk assessment takes into account chronic exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to nitric acid from food and water will utilize 37% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Nitric acid may be used as an inert ingredient in pesticide products that are registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to nitric acid.

Using the exposure assumptions described in this unit for short-term exposures, EPA concluded that the combined short-term aggregated food, water, and residential pesticide exposures result in MOEs of 4 for adults. Adult residential exposure combines high end dermal and inhalation handler exposure from liquids/trigger sprayer/home garden with a high-end post application dermal exposure from contact with treated lawns. EPA has concluded the combined short-term aggregated food, water, and residential pesticide exposures result in an aggregate MOE of 2 for children. Children's residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures). Because EPA's level of concern for nitric acid is an MOE below 1, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Nitric acid may be used as an inert ingredient in pesticide products that are registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to nitric acid.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the intermediate-term aggregated food, water, and residential exposures result in aggregate MOEs of 10 for adults. Adult residential exposure includes high end post application dermal exposure from contact with treated lawns. EPA has concluded the combined intermediate-term aggregated food, water, and residential exposures result in an aggregate MOE of 2 for children. Children's residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures). Because EPA's level of concern for nitric acid is an MOE below 1, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in adequate rodent carcinogenicity studies, nitric acid is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to nitric acid residues.

V. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of nitric acid in or on any food commodities. EPA is establishing a limitation on the amount of nitric acid that may be used in pesticide formulations. This limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 10% nitric acid in the final pesticide formulations.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established

for residues of nitric acid (CAS Reg. No. 7697–37–2) when used as an inert ingredient (pH adjuster) in pesticide formulations applied to crops and raw agricultural commodities pre- and post-harvest under 40 CFR 180.910, limited to no more than 10% by weight in the pesticide formulation.

VII. Statutory and Executive Order Reviews

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

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

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

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: October 31, 2022.

Jennifer Saunders,

Acting Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.910, amend table 1 by adding, in alphabetical order the inert ingredient ''Nitric acid (CAS Reg. No. 7697–37–2)'' to read as follows:

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

* * * * *

TABLE 1 TO 180.910

Inert ingredients	Limits	Uses
* * *	* * *	*
Nitric acid (CAS Reg. No. 7697–37–2)	10% by weight in pesticide formulation	pH adjuster.
* * *	* * *	*

[FR Doc. 2022–23978 Filed 11–7–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2020–0094; FF09E21000 FXES11110900000 234]

RIN 1018–BE89

Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for Sickle Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened status under the Endangered Species Act of 1973 (Act), as amended, for the sickle darter (*Percina williamsi*), a fish species from the upper Tennessee River drainage in North Carolina, Tennessee, and Virginia. This rule adds the species to the List of Endangered and Threatened Wildlife. We also finalize a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the sickle darter.

DATES: This rule is effective December 8, 2022.

ADDRESSES: This final rule is available on the internet at *https://www.regulations.gov.* Comments and materials we received are available for public inspection at *https://www.regulations.gov* at Docket No. FWS–R4–ES–2020–0094. Supporting materials we used in preparing this rule, such as the species status assessment report, are available on the Service's website at *https://www.fws.gov/tennessee-ecological-services/library,* at *https://regulations.gov* at Docket No. FWS–R4–ES–2020–0094 or both.

FOR FURTHER INFORMATION CONTACT: Daniel Elbert, Field Supervisor, U.S. Fish and Wildlife Service, Tennessee Ecological Services Field Office, 446 Neal Street, Cookeville, TN 38501; telephone 913–528–6481. 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:

Executive Summary

Why we need to publish a rule. Under the Act, if we determine that a species is an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within one year. Whenever any species is listed as a threatened species, the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of such species. In addition, the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1) of the Act for endangered species. Listing a species as an endangered or threatened species and designation of critical habitat can only be completed by issuing a rulemaking.

What this document does. This final rule lists the sickle darter as a threatened species and adopts a rule issued under section 4(d) of the Act for the species.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that threats to the sickle darter include habitat loss or degradation stemming from hydrologic alteration by impoundments, including dams and other barriers; land development that does not incorporate best management practices (BMPs); and diminished water quality from point and non-point source pollution and siltation (Factor A). These threats contribute to the negative effects associated with the species' reduced range and potential effects of climate change (Factor E).

We are not designating critical habitat for the sickle darter at this time. To the maximum extent prudent and determinable, we must designate critical habitat for any species that we determine to be an endangered or threatened species under the Act. A careful assessment of the economic impacts that may occur due to a critical habitat designation is still ongoing, and we are in the process of working with States and other partners in acquiring the complex information needed to perform that assessment. We will propose critical habitat once we have completed our economic assessment.

Previous Federal Actions

Please refer to the sickle darter's proposed listing rule (85 FR 71859; November 12, 2020) for a detailed description of previous Federal actions concerning this species.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the sickle darter. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we solicited independent scientific review of the information contained in the sickle darter SSA report. As discussed in the proposed rule, we sent the SSA report to five independent peer reviewers and received four responses. The peer reviews can be found at *https://www.regulations.gov* under Docket No. FWS–R4–ES–2020–0094. In preparing the proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which was the foundation for the proposed rule and this final rule.

Summary of Changes From the Proposed Rule

This final rule incorporates several changes to our proposed rule (85 FR 71859; November 12, 2020) based on the comments we received. These changes are summarized below and discussed further under Summary of Comments and Recommendations. Minor, nonsubstantive changes and corrections are made throughout this rule in response to comments. However, the information we received during the public comment period on the proposed rule did not change our determination that the sickle darter is a threatened species.

We received substantive comments on the proposed rule issued under section 4(d) of the Act (''4(d) rule'') for the sickle darter. We have made changes to this rule as a result of the public comments we received. In summary, we modified the language for four

exceptions to incidental take prohibitions in the sickle darter 4(d) rule.

• We modified the exception to the incidental take prohibition for bank stabilization projects to add a requirement that appropriate ''native'' vegetation, including woody and herbaceous species appropriate for the region and habitat, be used for stabilization.

• We modified the exception to the incidental take prohibition for transportation projects to include actions that avoid the sickle darter spawning period to protect the fish during the sensitive life stage of spawning. Transportation projects that take place between April 1 and January 31 (outside the spawning period) are consistent with the timing of other exceptions to take prohibitions for sickle darter.

• We modified the exception to the incidental take prohibition for silviculture and forest management activities to apply throughout the year (*i.e.,* we removed the spawning period consideration from this exception based on implemented silvicultural BMPs as long as those activities implement State-approved BMPs and meet the conditions specified in the 4(d) rule. We modified the exception to the incidental take prohibition for silviculture and forest management activities to reflect language consistent with final 4(d) rules for species with similar habitat requirements (see *(6) Comment* under Summary of Comments and Recommendations, below).

I. Final Listing Determination

Background

Sickle Darter

A thorough review of the taxonomy, life history, and ecology of the sickle darter is presented in the SSA report (Service 2020a, pp. 9–30). The biological information for the sickle darter in the SSA report is summarized below.

The sickle darter is a small fish native to the upper Tennessee River drainage in North Carolina, Tennessee, and Virginia. The species currently has a disjunct distribution, with populations in the Emory River, Little River, Sequatchie River, and Emory River systems in Tennessee, and in the upper Clinch River, North Fork Holston River, and Middle Fork Holston River systems in Virginia. Populations within the French Broad River system in North Carolina and Tennessee, and within the South Fork Holston River, Powell River, and Watauga River systems in Tennessee are extirpated. A thorough review of the taxonomy, life history, and ecology of the sickle darter is presented in the SSA report (Service 2020a, pp. 9–13).

The sickle darter has a long, slender body reaching up to 120 millimeters (mm) (4.7 inches (in)) in length and an elongated, pointed snout. The upper body color is brown to olive with a white to pale yellow lower body. Spawning occurs in late winter (February to March), and the species has a maximum lifespan of 3 to 4 years. Sickle darters typically occupy flowing pools over rocky, sandy, or silty substrates in clear creeks or small rivers. Occupied streams tend to have good water quality, with low turbidity and negligible siltation (Etnier and Starnes 1993, p. 576; Alford 2019, p. 9). In these habitats, the species is most often associated with clean sand-detritus or gravel-cobble-boulder substrates, stands of American water willow (*Justicia americana*), or woody debris piles at water depths ranging from 0.4 to 1.0 meter (m) (1.3 to 3.3 feet (ft)) (Etnier and Starnes 1993, p. 576; Page and Near 2007, p. 609; Alford 2019, p. 8). Streams supporting sickle darters range from 9 to 33 m (29 to 108 ft) wide, and streamside tree canopy cover in these streams ranges from open to nearly closed (Alford 2019, p. 8). The species spends most of its time in the water column, often hovering a few inches above the stream or river bottom (Etnier and Starnes 1993, p. 576).

In winter, sickle darters have been observed in deep pools (depths of up to 3 m (10 ft)) or in slow-flowing, shallow pools in close proximity to cover (Etnier and Starnes 1993, p. 576; Service 2020b, p. 1). The species migrates from the deepest areas of pools to shallow, gravel shoals (riffles) in late winter or early spring (February to March) to spawn (Etnier and Starnes 1993, p. 576). Spawning begins when stream water temperatures reach 10 to 16 Celsius (°C) (50 to 60 Fahrenheit (°F)) (Petty et al. 2017, p. 3). Sexual maturity of males occurs at the end of the first year of life, while sexual maturity of females occurs at the end of their second year of life (Page 1978, p. 663; Petty et al. 2017, p. 3). Females produce up to 355 eggs per clutch, which hatch in 21 days at an average stream temperature of 10 °C (50 °F) (Etnier and Starnes 1993, p. 576). The incubation period is likely shorter (about 2 weeks) when stream temperatures are higher (Service 2020b, p. 1). The larvae move up and down in the water column and presumably feed on zooplankton and other small macroinvertebrates after depleting yolk sac nutrients (Etnier and Starnes 1993, p. 576; Petty et al. 2017, p. 3). After about 30 days, the larvae move to the stream bottom where they mature (Petty et al. 2017, p. 3). Except for their late winter movements from pools to riffles for spawning, no information is available on the movement behavior of the sickle darter. However, studies of two closely related species in the genus *Percina* (longhead darter and frecklebelly darter) indicate that the sickle darter likely exhibits seasonal upstream and downstream movements (Eisenhour et al. 2011, p. 15; Eisenhour and Washburn 2016, pp. 19–24).

Sickle darters feed primarily on larval mayflies and midges; minor prey items include riffle beetles, caddisflies, dragonflies, and several other groups of aquatic macroinvertebrates (Page and Near 2007, pp. 609–610; Alford 2019, p. 10). Crayfish have been reported as a common food item for the closely related longhead darter (Page 1978, p. 663), but have not been observed in the sickle darter's diet (Alford 2019, p. 10).

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for threatened and endangered species. In 2019, jointly with the National Marine Fisheries Service, the Service issued final rules that revised the regulations in 50 CFR parts 17 and 424 regarding how we add, remove, and reclassify threatened and endangered species and the criteria for designating listed species' critical habitat (84 FR 45020 and 84 FR 44752; August 27, 2019). At the same time the Service also issued final regulations that, for species listed as threatened species after September 26, 2019, eliminated the Service's general protective regulations automatically applying to threatened species the prohibitions that section 9 of the Act applies to endangered species (collectively, the 2019 regulations).

As with the proposed rule, we are applying the 2019 regulations for this final rule because the 2019 regulations are the governing law just as they were when we completed the proposed rule. Although there was a period in the interim—between July 5, 2022, and September 21, 2022—when the 2019 regulations became vacated and the pre-2019 regulations therefore governed, the 2019 regulations are now in effect and govern listing and critical habitat

decisions (*see Center for Biological Diversity* v. *Haaland,* No. 4:19–cv–05206–JST, Doc. 168 (N.D. Cal. July 5, 2022) (*CBD* v. *Haaland*) (vacating the 2019 regulations and thereby reinstating the pre-2019 regulations)) and *In re: Cattlemen's Ass'n,* No. 22–70194 (9th Cir. Sept. 21, 2022) (staying the vacatur of the 2019 regulations and thereby reinstating the 2019 regulations until a pending motion for reconsideration before the district court is resolved)).

The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an ''endangered species'' or a ''threatened species'' because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as the Services can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data available regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent a decision by the Service on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess sickle darter viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt to both near-term and long-term changes in the environment (for example, climate conditions, pathogen). In general, species viability will increase with increases in resiliency, redundancy, and representation. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA process involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–R4–ES–2020–0094 and on *https://www.regulations.gov.*

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. For sickle darter populations to be resilient, the needs of individuals (slow-flowing pools, substrate, food

availability, water quality, and aquatic vegetation or large woody debris) must be met at a larger scale. Stream reaches with suitable habitat must be large enough to support an appropriate number of individuals to avoid negative effects associated with small population size, such as inbreeding depression and the Allee effect (whereby low population density reduces the probability of encountering mates for spawning). Connectivity of stream reaches allows for immigration and emigration between populations and increases the likelihood of recolonization should a population be lost. At the species level, the sickle darter needs a sufficient number and distribution of healthy populations to withstand environmental stochasticity (resiliency) and catastrophes (redundancy) and adapt to biological and physical changes in its environment (representation). To evaluate the current and future viability of the sickle darter, we assessed a range of conditions to allow us to consider the species' resiliency, representation, and redundancy.

Factors Influencing Viability of Sickle Darter

Habitat loss and degradation resulting from siltation, water quality degradation, and impoundments pose the largest risk to the current and future viability of the sickle darter and are the primary contributors to the species' reduced range, population fragmentation, and population loss. The effects of population fragmentation and isolation may exacerbate the effects of other threats on the sickle darter. Climate change is a potential stressor that may impact the sickle darter in the future. We found the species does not face significant threats from overutilization, disease, predation, or invasive species. States provide some protections for the sickle darter and we found that inadequacy of regulatory mechanisms is not a threat to the species. A brief summary of relevant stressors is presented below; for a full description, refer to chapter 3 of the SSA report and the proposed rule (Service 2020a, entire; 85 FR 71864–71866).

Siltation can affect fishes through abrasion of gill tissues, suffocation of eggs or larvae, reductions in disease tolerance, degradation of spawning habitats, modification of migration patterns, and reductions in food availability (Berkman and Rabeni 1987, pp. 285–294; Waters 1995, pp. 5–7; Wood and Armitage 1997, pp. 211–212; Meyer and Sutherland 2005, pp. 2–3).

A variety of pollutants that may impact the sickle darter continue to degrade stream water quality within the upper Tennessee River drainage (Locke et al. 2006, pp. 197, 202–203; TDEC 2010, pp. 42–48; TDEC 2014, pp. 47–53; Zipper et al. 2016, p. 604; TDEC 2017, pp. 51–106; VDEQ 2020 (appendix 5), pp. 2387–2617). Major pollutants within the upper Tennessee River drainage include pathogens, domestic sewage, animal waste, nutrients, metals, and toxic organic compounds.

Impoundments have significantly influenced the species' current distribution within the upper Tennessee River drainage through physical, chemical, and biological changes to these systems (Etnier and Starnes 1993, p. 576; Jenkins and Burkhead 1994, pp. 101–106; Service 2020a, p. 3).

Sickle darter populations are localized and geographically isolated from one another due to impoundments and other habitat degradation, leaving them vulnerable to localized extinctions from toxic chemical spills, habitat modification, progressive degradation from runoff (non-point source pollutants), natural catastrophic changes to their habitat (*e.g.,* flood scour, drought), other stochastic disturbances, and decreased fitness from reduced genetic diversity.

Changing climate conditions can influence sickle darter viability through changes in water temperature and precipitation patterns that result in increased flooding, prolonged droughts, or reduced stream flows (McLaughlin et al. 2002, pp. 6060–6074; Cook et al. 2004, pp. 1015–1018; Thomas et al. 2004, pp. 145–148; IPCC 2014, pp. 58–83). The species' early spawning period (February to March) makes it vulnerable to warming temperatures and higher flows—conditions that could interrupt or prevent successful spawning in a given year (Service 2020b, p. 3).

Synergistic Effects

In addition to individually impacting the species, it is likely that several of the above summarized risk factors are acting synergistically or additively on the sickle darter. The combined impact of multiple stressors is likely more harmful than a single stressor acting alone. For example, impoundments in the upper Tennessee River drainage cause changes in riverine habitats, including increased sediment deposition (siltation). Additionally, sediment particles in urban and agricultural runoff carry bound nutrients (phosphorus and nitrogen) and other stream pollutants into streams and rivers.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species but have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the current and future condition of the species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

We delineated analytical units (populations) using the tributary systems the sickle darter historically occupied. Each population represents demographically linked interbreeding individuals; however, these populations are currently separated by long distances or isolated by impoundments. We identified 10 historical populations across the range of the sickle darter: Emory River, Clinch River, Powell River, Little River, French Broad River, North Fork Holston River, Middle Fork Holston River, South Fork Holston River, Watauga River, and Sequatchie River.

To assess resiliency, we evaluated six components that broadly relate to the species' physical environment or its population demography. Each population's physical environment was assessed by averaging three components determined to have the most influence on the species: physical habitat quality, connectivity, and water quality. The three components describing population demography were reproduction, occurrence extent (total length of occupied streams compared to historical range), and occupied stream length. Parameters for each component's condition category were established by evaluating the range of existing data and separating those data into categories based on our understanding of the species' demographics and habitat. Using the demographic and habitat parameters, we then categorized the overall condition of each population. We weighted each of the six components equally and determined the average score to describe each population's current condition (see table 1, below).

Due to a limited amount of species-specific genetic information for the sickle darter, we based our evaluation of the species' representation on the extent and variability of environmental diversity (habitat diversity) across the species' geographical range. Additionally, we assessed sickle darter redundancy (ability of species to withstand catastrophic events) by evaluating the number and distribution of resilient populations throughout the species' range. Highly resilient populations, coupled with a relatively broad distribution, have a positive relationship to species-level redundancy.

TABLE 1—COMPONENT CONDITIONS USED TO ASSESS RESILIENCY FOR SICKLE DARTER POPULATIONS

Component	Condition			
	High	Moderate	Low	0
Physical Habitat	Slow-flowing pools abundant (ample cover in pools); silt deposition low; no extensive or significant habitat alteration such as recent channelization or riparian clearing; >75% of available habitat suitable for the species.	Slow-flowing pools present but not abundant (some pools with cover); silt deposition moderate; habitat alteration at moderate level such that channelization or other habitat disturbance more widespread; 25–75% of available habitat suitable for the species.	Slow-flowing pools scarce (few pools with cover); silt deposition extensive; habitat severely altered and recognized as impacting the species; <25% of habitats suitable for the species.	Habitat unsuitable.
Connectivity	High immigration potential between populations (no dams or other barriers separating populations).	Moderate immigration potential between populations (populations separated by one low-head dam, and other partial barriers, such as narrow culverts, may be present).	Low immigration potential between populations (populations separated by ≥2 low-head dams or other barriers).	No connectivity (populations isolated; no immigration potential due to the presence of large reservoirs).
Water Quality	Minimal or no known water quality issues (*i.e.*, no 303(d) streams* impacting the species, area sparsely populated, few roads).	Water quality issues recognized that may impact species (*i.e.*, some 303(d) streams*, unpaved roads more common, moderate levels of developed land use).	Water quality issues prevalent within system, likely impacting populations (i.e., numerous 303(d) streams*).	Water quality unsuitable.
Reproduction	Clear evidence of reproduction, with multiple age classes present.	Clear evidence of reproduction, juveniles present, but multiple age classes not detected.	No direct evidence of reproduction (only adults present).	Extirpated.
Occurrence Extent	<10% decline from historical range.	10–50% decline from historical range.	>50% decline from historical range.	Extirpated.
Occupied Stream Length (Continuity).	≥22.5 km (≥14 mi)	11.3–22.5 km (7–14 mi)	<11.3 km (<7 mi)	Extirpated.

* A 303(d) stream is a stream listed under section 303(d) of the Clean Water Act of 1972 (33 U.S.C. 1251 *et seq.*) as a water body impaired by pollutants.

Current Condition of Sickle Darter

Historically, the sickle darter was known from 10 river system in Tennessee, Virginia, and North Carolina. Of these 10, sickle darter populations have been extirpated from the Powell River, French Broad River, South Fork Holston River, and Watauga River systems, including the species' only population within the Blue Ridge ecoregion. Currently, the sickle darter is known from six tributary systems in the upper Tennessee River drainage: Emory River, Little River, Clinch River, North Fork Holston River, Middle Fork Holston River, and Sequatchie River. The Sequatchie River population was discovered in 2014; the other 5 river systems were historically occupied. Impoundments and water pollution in the upper Tennessee River drainage were major factors in the decline of the sickle darter and several other fishes during the early to mid-20th century (Etnier and Starnes 1993, pp. 15, 576). Current factors affecting the condition of sickle darter populations include habitat and water quality degradation, low connectivity, and small population size (*e.g.,* Clinch River). As shown in table 2, below, the Emory River and Little River populations exhibit moderate resiliency, as evidenced by the species' persistence within these systems for over 45 years, recent and repeated evidence of reproduction and recruitment, a relatively long occupied reach in each system (more than 22.5 kilometers (km) (14 miles (mi))), and the physical habitat condition and water quality in both systems. The remaining four populations exhibit low resiliency. They are represented by fewer documented occurrences, no evidence of recruitment, and shorter occupied reaches, and they occur in areas with limited habitat and water quality.

The species' adaptive potential (representation) is low because of its reduced range (and presumably associated reduction in genetic diversity), and the loss of connectivity caused by dam construction. The sickle darter occupies only two of three Environmental Protection Agency (EPA) Level III ecoregions, where it historically occurred the Ridge and Valley and the Southwestern Appalachians. The species has not been observed from the Blue Ridge ecoregion (French Broad River, North Carolina) since the 1940s. This reduction in the extent and variability of environmental diversity (habitat diversity) has likely reduced the sickle darter's ability to adapt to changing environmental conditions over time. Species isolation due to multiple large impoundments

also reduces the opportunities for or preventing the exchange of novel or beneficial adaptations and reducing the species' ability to migrate to more suitable habitats when necessary.

We assessed the number and distribution of resilient populations across the sickle darter's range as a measure of its redundancy. Construction of dams across the upper Tennessee River drainage has eliminated connectivity between extant populations. However, within the currently occupied streams, large barriers are absent, although some small barriers that hamper movement are present (*e.g.,* defunct low-head mill dams, low-water bridges, narrow or partially blocked culverts). As such, there is connectivity within each occupied stream and opportunity for movement of individuals, decreasing the effect of localized stochastic events. Four of ten historical sickle darter populations have been extirpated, leading to reduced redundancy from historical levels. Overall, the sickle darter exhibits a low degree of redundancy based on the number of moderately resilient populations across the range, and the lack of connectivity between occupied streams, increasing the species' vulnerability to catastrophic events.

Future Scenarios

For details regarding the predicted future condition for the sickle darter under each scenario, see chapter 5 of the SSA report (Service 2020a, pp. 54–68). In our SSA report, we defined viability as the ability of the species to sustain populations in the wild over time. To help address uncertainty associated with the degree and extent of potential future stressors and their impacts on the species' needs, the concepts of resiliency, redundancy, and representation were assessed using three plausible future scenarios. We devised these scenarios by identifying information on the following primary threats anticipated to affect sickle darter in the future: land cover, urbanization, climate change, and conservation activity. The three scenarios capture the range of uncertainty in the changing landscape and how sickle darter will respond to the changing conditions (see table 2, below). We used the best available data and models to project 50 years into the future (*i.e.,* 2070), a timeframe in which we were reasonably certain we could forecast the patterns in land use change, urbanization, and climate models (future threats) in the species' range and the sickle darter's response to those threats, given the species' life span.

Under Scenario 1 (continuation of current trend), no significant increases or decreases are expected with respect to land cover, urbanization, or habitat conditions, and habitat restoration efforts (*e.g.,* livestock fencing, riparian plantings, streambank restoration) by the Service and its partners are projected to continue at current levels. In addition, climate change would track representative concentration pathway (RCP) 4.5. Three of six extant sickle darter populations, Emory River, Little River, and Sequatchie River, are projected to maintain their resiliency categories at current levels. The other three extant populations, Clinch River, Middle Fork Holston River, and North Fork Holston River are projected to become extirpated within 30 years. The species' redundancy and representation are expected to remain at low levels.

Under Scenario 2 (improving trend), habitat conditions throughout the upper Tennessee River drainage are projected to improve due to increased conservation efforts and improving land use practices (*e.g.,* greater forest cover and reduced agricultural and development effects). Based on these factors, resiliency of all extant populations would remain at current levels or increase, and the species may be rediscovered or will be reintroduced into portions of the Powell River system and French Broad River system. The species has been successfully propagated in captivity and has been reintroduced in one location, although monitoring at the site has not occurred. If reintroduction efforts occur as projected under Scenario 2, the species' redundancy would increase the current level because populations will occur in two additional (historically occupied) river systems, increasing the number of extant populations from 6 to 8. In spite of the two added populations, representation would remain low because individuals would have the same genetic composition of parental stock in the rivers from which they were sourced, or will be founded from very small, previously undetected populations.

Under Scenario 3 (worsening trend), habitat conditions are projected to decline within the upper Tennessee River drainage due to reductions in forest cover, increased urbanization and agricultural activities, and a climate trend that tracks RCP 8.5. Combined with reduced conservation efforts, these factors will have a negative effect on population resiliency, with projected extirpations of the Clinch River, North Fork Holston River, Middle Fork Holston River, and Sequatchie River populations. Loss of these populations would reduce redundancy and representation, with overall species' redundancy and representation remaining at low levels.

TABLE 2—FUTURE CONDITION OF THE SICKLE DARTER BY THE YEAR 2070 UNDER THREE FUTURE SCENARIOS

Analytical unit (population)	Current condition	Scenario 1: current trend	Scenario 2: improving trend	Scenario 3: worsening trend
Emory River	Moderate	Moderate	Moderate	Low.
Clinch River	Low	Likely Extirpated	Low	Likely Extirpated.
Powell River	Extirpated	Likely Extirpated	Low *	Likely Extirpated.
Little River	Moderate	Low	Moderate	Low.
French Broad River	Extirpated	Likely Extirpated	Low *	Likely Extirpated.
Middle Fork Holston River	Low	Likely Extirpated	Low	Likely Extirpated.
North Fork Holston River	Low	Likely Extirpated	Low	Likely Extirpated.
South Fork Holston River	Extirpated	Likely Extirpated	Likely Extirpated	Likely Extirpated.
Sequatchie River	Low	Low	Low	Likely Extirpated.
Watauga	Extirpated	Likely Extirpated	Likely Extirpated	Likely Extirpated.

* Scenario 2 anticipates successful reintroduction or rediscovery of the species in two river systems.

Conservation Efforts and Regulatory Mechanisms

The sickle darter is listed as threatened by Tennessee (Tennessee Wildlife Resources Commission (TWRC) 2016, p. 3) and Virginia (Virginia Department of Game and Inland Fisheries (VDGIF) 2018, p. 1), making it unlawful to take the species or damage its habitat without a State permit. Additionally, the sickle darter is identified as a species of greatest conservation need in the Tennessee and Virginia Wildlife Action Plans, which outline actions to promote species conservation. A propagation effort for the sickle darter was initiated in 2015, producing 25 juveniles that were released to the wild. The status of the released fish is unknown, but the effort demonstrates that propagation may be a useful conservation tool to augment sickle darter populations or reintroduce the species to historical localities in the future.

The sickle darter and its habitats are afforded some protection from water quality and habitat degradation under the Clean Water Act, the Surface Mining Control and Reclamation Act, Tennessee's Nongame and Endangered or Threatened Wildlife Species Conservation Act of 1974 (Tennessee Code Annotated (T.C.A.), section 70–8–101 *et seq.*), Tennessee's Water Quality Control Act of 1977 (T.C.A., section 69–3–101 *et seq.*), Virginia's State Water Control Act (Virginia Code, section 62.1–44.2 *et seq.*), and additional Tennessee and Virginia statutes and regulations regarding natural resources and environmental protection. While it is clear that the protections afforded by these statutes and regulations have not prevented the degradation of some habitats used by the sickle darter, the species has undoubtedly benefited from improvements in water quality and habitat conditions stemming from these regulatory mechanisms.

Summary of Comments and Recommendations

In the proposed rule published on November 12, 2020 (85 FR 71859), we requested that all interested parties submit written comments on the proposal. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Asheville Citizen-Times on November 18, 2020, and in the Knoxville Daily Sun on November 22, 2020. We did not receive any requests for a public hearing. All substantive information provided during the comment period has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought peer review of the SSA report. We sent the sickle darter SSA report to five independent peer reviewers; all peer reviewers had expertise that included familiarity with sickle darter and its habitats, biological needs, and threats. We received responses from four peer reviewers for the sickle darter SSA report.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the SSA report. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the final SSA report. Peer reviewer comments are addressed in the following summary and were incorporated into the SSA report as appropriate.

(1) Comment: One peer reviewer noted that a recent study of the frecklebelly darter (*Percina stictogaster*), an ecologically and morphologically similar species to the sickle darter, documented frequent upstream and downstream movements, and the reviewer hypothesized a relationship to the pelagic nature of the frecklebelly darter. The reviewer postulated this information supports the relatively ''migratory'' nature of the sickle darter.

Our Response: We reviewed the information provided by the reviewer and included the information in the SSA report. Specifically, we recognize the similarities of the sickle darter with congeneric species, including the frecklebelly darter, and describe the behavior of the sickle darter and frecklebelly darter as pelagic (*i.e.,* inhabiting the water column) in the SSA report (Service 2020a, pp. 12–13). We also describe the potential for similar upstream and downstream movements of the two species in the SSA report under *Reproduction and Life History* (Service 2020a, pp. 12–13). We note that the pelagic behavior of sickle darter juveniles and adults supports the hypothesis that sickle darters have some ability to disperse and/or move within a stream system. Additionally, we describe the movement behavior of the longhead darter (*Percina macrocephala*) and frecklebelly darter in chapter 2 of the SSA report.

(2) Comment: One peer reviewer noted that survey sampling methodology may vary, and population estimates should note if all habitat types were sampled or only the run habitat likely to harbor sickle darter.

Our Response: Darter survey methodologies can vary in site selection, study design, equipment or gear used, or other factors. For the SSA report, we used population estimates based on snorkeling survey data (total abundance of sickle darters in each reach) collected at several survey reaches in each system (Alford 2019, pp. 24–33). Reaches were selected based on historical occurrence records and additional river reaches that included pool and riffle-run macrohabitat in the Emory, Little, Sequatchie, and Middle Fork Holston rivers and Little Rock Creek. This study employed multiple sampling methods including backpack or boat electrofishing and seines followed by snorkeling. Surveyors searched all habitat (entire channel width) in the selected river reach.

Our population estimates in the SSA report for the Emory River and Little River populations were based on an approach to estimate population size for the congeneric longhead darter, a species with similar life-history and biological needs in Kinniconick Creek, Kentucky (Eisenhour et al. 2011, p. 15). Based on the methodology in the longhead darter study, we expected that 20 to 50 percent of sickle darters were observed in each survey reach, and we extrapolated from the total survey reach length to the occupied reach length in each system to arrive at our population estimates. Population estimates were not calculated for other systems due to the low abundance in those systems (fewer than 10 individuals observed since 2005). We revised the SSA report to more clearly explain the population estimate process and the survey methodology (Service 2020a, p. 67).

Public Comments

During the comment period, we received 22 public comments on the proposed rule. A majority of the comments supported the listing determination, none opposed the determination, and some included suggestions on how we could refine or improve the 4(d) rule for the sickle darter. All substantive information provided to us during the comment period has been incorporated directly into this final rule or is addressed below.

(3) Comment: One commenter stated that the sickle darter should be listed as

endangered because of the threat of climate change.

Our Response: As described in Determination of Sickle Darter Status, below, we considered whether the sickle darter is presently in danger of extinction throughout all or a significant portion of its range and determined that the species does warrant listing as an endangered species in all or a significant portion of its range. The current conditions as assessed in the SSA report show that the species occurs in six different populations (river systems) over a majority (67 percent) of the species' historical range. The sickle darter currently exhibits representation across two of the three historical physiographic regions, and extant populations remain across the range. In addition, the best available science does not indicate that climate change is currently affecting status of the sickle darter. Our analysis reveals that climate change is a factor that is likely to affect the status of the sickle darter in the foreseeable future, which is consistent with our determination of threatened status for the species. In short, while the primary threats are currently acting on the species and many of those threats, as well as climate change, are expected to impact the species' viability in the future, we did not find that the species is currently in danger of extinction throughout all or a significant portion of its range.

(4) Comment: Another commenter requested the Service provide additional information regarding the impact of climate change on the sickle darter and the expected time those impacts will be experienced by the species.

Our Response: In the SSA report, we describe the expected impacts of climate change on the sickle darter (Service 2020a, pp. 27–28). Briefly, increases in water temperatures and higher flows during the spawning period and an increase in the frequency, duration, and intensity of droughts are expected to negatively affect the resiliency and viability of the sickle darter, although the best available science does not provide insight regarding the extent and timing of those effects. We based our analysis of future condition on projections from available models for urbanization, land use, and climate change, threats that are projected to affect the viability of the species (see 85 FR 71859, November 12, 2020, at pp. 71866–71867). For the SSA, we developed three plausible future scenarios that included varying levels of climate change impacts. Based on these projections, we determined the species will be impacted by the effects of climate change within the next 50 years.

(5) Comment: We received several comments stating that the proposed 4(d) rule's language referring to ''highest-standard best management practices'' was too vague or confusing. The commenters recommended removing the phrase ''highest-standard best management practices'' from the exception for incidental take associated with certain activities. They suggested replacing it with language referring to existing State BMPs that are based on the best available scientific and commercial information where species occur in similar habitats and have similar life-history and are affected by similar threats.

Our Response: In the proposed rule, rather than specifying a particular set of best management practices currently in existence, we used ''highest-standard best management practices'' to refer to the most stringent ones available at the time of project implementation. Our intent was for this language to encompass changes made to BMPs as new information became available.

We carefully considered the issues raised by the commenters and addressed them by revising the 4(d) rule to specify the habitat management goals necessary to provide for the breeding, feeding, and sheltering needs of the sickle darter, rather than prescribing a particular management practice (*e.g.,* specified streamside management zone widths, logging road grade, timing of water bar installation, etc.) with which to achieve necessary habitat protection. In doing so, we revised the phrase ''highest-standard best management practices'' in the 4(d) rule (see III. Final Rule Issued Under Section 4(d) of the Act for the Sickle Darter, below, for more information). To clarify the terminology, we removed the term ''highest-standard'' from 4(d) rule and now refer to these practices (the most stringent ones currently available) as ''State-approved'' best management practices, which we intend to encompass changes made to BMPs as new information becomes available and informs those practices. We also added language to the exception to specify the factors that the BMPs must address for those BMPs to qualify under this exception. Accordingly, while the language of the exception has changed, our intent in the scope of this exception has not.

(6) Comment: Several commenters highlighted language in published proposed and final listing, 4(d), and critical habitat rules for other aquatic species that describe the BMPs the Service has referred to in those rules. They asked us to consider incorporating similar standardized language in the 4(d) rule for the sickle darter and other species as appropriate. The commenters suggested the Service use similar language for species with comparable needs when existing State-approved forestry BMPs are sufficient for protection of a species (*i.e.,* these BMPs appear as an exception to the incidental take prohibition) in a 4(d) rule. They indicated this language should apply to the 4(d) rule for sickle darter.

Our Response: A 4(d) rule for a threatened species is intended to establish species-specific regulations to provide for the conservation of the species. Where appropriate, they may also incentivize beneficial actions for the species and reduce the regulatory burden on forms of take that are compatible with the conservation of the species. The species-specific nature of 4(d) rules indicates that they do not set an example, template, or precedent for other species; however, it may be practical to consider how 4(d) rules are implemented for species that may be similar or have overlapping geographic ranges and habitat needs. Our regulations at 50 CFR 17.31(c) state that the species-specific 4(d) rule will contain all the applicable prohibitions and exceptions for the protection of the species.

Standardizing language across 4(d) rules, when appropriate, can be helpful for public understanding and implementation. We have revised the language pertaining to silvicultural and forest management BMPs in the 4(d) rule for the sickle darter to be consistent with other 4(d) rules published in the **Federal Register** that include the same provisions (see Provisions of the 4(d) Rule, below) for species with similar life-history requirements, habitat requirements, and threats. However, 4(d) rules are species-specific, and language applicable to one species may not be applicable to another, so standardized language can only be applied when it is appropriate to a given species. Several of the comments referenced language in listing, 4(d), and critical habitat rules for other aquatic species that have life-history characteristics requirements, threats, and habitat condition needs that differ from those of the sickle darter. Due to these differences, we have carefully reviewed the language the commenters describe, and have developed the species-specific 4(d) rule for the sickle darter based on what is necessary and advisable to provide for the conservation this particular species.

Additionally, the species-specific nature of 4(d) rules is inherently resistant to standardization, because the Service must consider the needs of the species being listed as threatened and

issue regulations deemed necessary and advisable to provide for the conservation of that species. The 4(d) rule for the sickle darter does not prescribe management restrictions; rather, it outlines prohibitions (*e.g.,* take) to ensure the species and its habitat are not adversely affected, and exceptions to those prohibitions for incidental take resulting from activities that are not expected to adversely affect the species and that may provide conservation benefits. The 4(d) rule's exceptions provide specific information on the conditions required for actions excepted from incidental take; they do not prohibit other forms of silvicultural or forestry management activities. Those activities not falling within the stated exceptions simply would require consultation with the Service under section 7, or a conservation agreement under section 10, of the Act. The 4(d) rule's exceptions, including the conditions necessary to meet those exceptions, are intended to provide some relief from regulatory burden, while avoiding adverse impacts to the species and adverse modification of the species' habitat.

(7) Comment: Four commenters stated that State BMPs are sufficient for the protection of the sickle darter year-round because BMP implementation rates are high for silviculture and forestry management activities in North Carolina, Tennessee, and Virginia. Some commenters also stated their views that assessments of water quality using aquatic insects (benthic macroinvertebrates) as indicators confirm that BMPs are protective of water quality and habitat for aquatic species; therefore, BMPs are sufficient for protecting the sickle darter as well. The commenters requested we provide an exception for incidental take for all State-approved BMPs and asked that we do not exclude from that exception forestry practices during the spawning period that adhere to the BMPs from this exception in the 4(d) rule.

Response: As discussed above under Summary of Biological Status and Threats, sediment is one of the most frequently cited water quality concerns and is one of the top causes of river and stream impairment in the United States. Sedimentation is one of the primary stressors to the sickle darter and one of the primary stressors of streams in the upper Tennessee River drainage (Service 2020a, chapter 3). However, we agree with commenters that when used and properly implemented, BMPs can offer a substantial improvement to water quality through reduced sedimentation, siltation, runoff, and erosion compared to forestry operations where BMPs are not properly implemented. We recognize that silvicultural operations and forestry activities are widely implemented in accordance with State-approved BMPs (as reviewed by Cristan et al. 2018, entire), and the adherence to these BMPs broadly protects water quality, particularly related to sedimentation (as reviewed by Cristan et al. 2016; Warrington et al. 2017, entire; and Schilling et al. 2021, entire). While we note that forest management is not completely risk-free for wildlife or water quality, we understand that the development and refinement of BMPs have resulted in substantial improvements to forestry's impacts on water quality in recent decades and have created a culture of water stewardship in the forest landowner community, making this stakeholder group an important ally in the conservation of imperiled species. In consideration of the comments received, we determined that the reduced risks to water quality resulting from adherence to State-approved BMPs justify the Service's inclusion of an exception for incidental take associated with these forestry BMPs in the 4(d) rule for the sickle darter.

Much of the literature shared by commenters on the effectiveness of BMPs for protecting aquatic species and their habitats relies on aquatic macroinvertebrate assessments, mostly of aquatic insects. While aquatic insects are a commonly used in rapid field assessments for monitoring or measuring water quality, there is a gap in the best available science about how that such results relate to vertebrates, such as fish (*e.g.,* sickle darter). Most aquatic insects are not rare species, and immigration by aquatic insects back into an affected stream reach may be facilitated by downstream drift or other mechanisms, including the adult winged flight stage, which allows immigration from other nearby waterbodies or from downstream reaches. Although we have concerns about the applicability of aquatic macroinvertebrate assessment in our analysis, in the absence of more precise measures, we incorporated aquatic insect community and other water quality measures in determining the protective effects of implemented BMPs on the sickle darter and its habitat.

In this final rule, we have revised the 4(d) rule to except incidental take resulting from silvicultural practices and forest management activities that implement State-approved BMPs, for the entire year, including the spawning period. When considering this revision, in addition to assessing the effectiveness of silviculture BMPs, we noted the life-history characteristics of the species, including that sickle darters inhabit larger upland streams and small to medium rivers in Tennessee and Virginia. The effects of sedimentation and siltation, while detrimental to aquatic organisms including the sickle darter, are expected to be somewhat reduced in those larger streams and small to medium rivers when compared to their effects on small headwater streams with the same sediment input (Johansen 2021, pers. comm.). On a landscape scale in the range of the species, we expect many silvicultural and forest management activities will occur outside the riparian area adjacent to occupied reaches of sickle darter habitat. The long, occupied reaches of sickle darter habitat provide space for individual fish to disperse from areas of temporarily unsuitable conditions to suitable habitat. Although some sedimentation may occur as a result of forestry activities, we have determined that the overall outcome of the excepted silviculture and forestry activities is necessary and advisable to provide for the conservation of the species. Therefore, as we state above, this final 4(d) rule excepts incidental take resulting from silvicultural practices and forest management activities that implement State-approved BMPs, for the entire year, including the spawning period.

(8) Comment: Several commenters referenced the exception of silvicultural practices under section 404 of the Clean Water Act as long as 15 baseline conditions are met, including the required protection of threatened and endangered species and critical habitat (see 33 CFR 323.4(a)(6)(i)–(xv)). Similarly, one commenter noted that the Environmental Protection Agency (EPA) does not regulate stormwater discharges from forest roads under section 402(p)(6) of the Clean Water Act, in part due to existing State, Federal, regional, and private sector programs that address water quality issues caused by discharges from forest roads (see 81 FR 43492; July 5, 2016). Commenters concluded that existing silvicultural BMPs developed to meet the conditions of the Clean Water Act exemptions are sufficient to protect the sickle darter throughout the year, including during the February and March spawning period when the proposed exception to the incidental take prohibition would not apply. Commenters requested that we revise the final rule to include an exception to incidental take prohibitions for silviculture and forest management activities for the entire year.

Our Response: Under section 404(f)(1) of the Clean Water Act (CWA) and its implementing regulations at 33 CFR 323.4(a)(1), established (ongoing) farming, ranching, and silvicultural activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices are not prohibited by or otherwise subject to regulation under section 404 of the CWA. Silvicultural activities that represent a new use of water or that would result in reach or impairment flow or circulation of waters of the United States would not qualify for this exemption. This exemption also does not apply to any activity within a navigable water of the United States for which a permit is required under section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). In addition, BMPs related to road construction or maintenance must be met to meet the exemption criteria under section 404(f)(1) of the CWA (see 33 CFR 323.4(a)(6)). These BMPs are intended to assure the flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired. The provision of 33 CFR 323.4(a)(6)(ix) noted in the comments states that the discharge shall not take, or jeopardize the continued existence of, a threatened or endangered species as defined under the Endangered Species Act, or adversely modify or destroy the critical habitat of such species.

In the 2016 decision not to regulate forest road discharges under the CWA (see 81 FR 43492; July 5, 2016), the EPA recognized that discharges from forest roads have significant impacts on water quality in many parts of the country; however, the agency concluded the most effective way to make further progress in addressing these issues was to support existing programs. The EPA also noted that some programs will necessarily be more rigorous than others and the variability was considered, but EPA determined the challenges of implementation outweighed the benefits of nationwide consistency.

The sickle darter and its habitats are afforded some protection from water quality and habitat degradation under the CWA, the Surface Mining Control and Reclamation Act, Tennessee's Nongame and Endangered or Threatened Wildlife Species Conservation Act of 1974, Tennessee's Water Quality Control Act of 1977, Virginia's State Water Control Act, and additional Tennessee and Virginia statutes and regulations regarding natural resources and environmental protection. While it is clear that the protections afforded by these statutes and regulations have not prevented the degradation of some habitats used by the sickle darter, sickle darter spawning has not been precluded by the changes in habitat condition. In addition, the species has undoubtedly benefited from improvements in water quality and habitat conditions stemming from these regulatory mechanisms. We recognize the water quality and habitat protections afforded the sickle darter through the CWA and also note the implementation of BMPs (see our response to *(7) Comment*). These measures offer protection of water quality in sickle darter habitat throughout the year and these protections are adequate during the spawning period as well. We have revised the 4(d) rule to except incidental take resulting from silvicultural practices and forest management activities that implement State-approved BMPs, for the entire year, including the spawning period.

(9) Comment: Two commenters expressed concern that the spawning period exclusion in the exception from incidental take for silvicultural practices and forest management activities in the proposed 4(d) rule for sickle darter would act as a moratorium, and that this would set a precedent in limiting a landowner's financial interest in lands in silviculture and forestry management. One commenter asked about areas where the 4(d) rule would apply, including questions about States or river basins where the species is extirpated, critical habitat, and analytical units (used to assess populations in the SSA). The commenter also requested information about how a landowner could determine if their property contains or is adjacent to sickle darter spawning habitat and another requested information about specific forest management practices that would fall under the 4(d) rule.

Response: As discussed above in our responses to *(7) Comment* and *(8) Comment,* we have revised the 4(d) rule to except incidental take resulting from silvicultural practices and forest management activities that implement State-approved BMPs, for the entire year, including during the spawning period. Therefore, a number of concerns regarding the 4(d) rule presented by commenters are no longer applicable. However, the comments and questions presented here indicate that there may be some misunderstanding about the function and purpose of the 4(d) rule, the exceptions to the Act's section 9 take prohibitions, the definitions of analytical units and critical habitat, and how a landowner can determine the presence of endangered or threatened species on or near their property. Therefore, although some of the commenters' concerns have been already addressed, we offer clarification and explanation below to address the other issues and questions raised.

The proposed 4(d) rule did not establish a moratorium on forestry management and silviculture activities. Section 4(d) of the Act directs the Service to issue regulations deemed necessary and advisable to provide for the conservation of threatened species. It allows the Service to promulgate species-specific rules for species listed as threatened (not endangered) that provide flexibility in implementing the Act. We use 4(d) rules to, among other things, extend take prohibitions where it is necessary to conserve the species. This targeted approach can allow take associated with some activities that do not substantially harm the species, while focusing our efforts on the take associated with those activities that threaten the species and that make a difference to the species' recovery. Activities that may involve take of a threatened species where the take is not excepted from the Act's section 9 take prohibitions by a 4(d) rule can still occur as long as there is consultation with the Service under section 7 of the Act or a permit is issued under section 10 of the Act. Accordingly, not excepting take associated with a certain activity in a 4(d) rule does not constitute a moratorium on that activity.

On and following the effective date of this rule (see **DATES**, above), the 4(d) rule applies to the listed species wherever it is found. Accordingly, the current range of the species is described in the SSA report (Service 2020a, pp. 16–19), the proposed rule (85 FR 71859; November 12, 2020), and this final rule. However, range information changes over time. Therefore, information regarding the sickle darter, including range information, may be found on the species profile page in the Service's Environmental Conservation Online System (ECOS) at *https://ecos.fws.gov/ecp/species/9866.* In addition, a landowner or project proponent can use the Service's Information for Planning and Consultation (IPaC) online system (*https://ecos.fws.gov/ipac/*) to assist in project planning within the range of the sickle darter or contact their local Ecological Services Field Office for more information and assistance.

Analytical units were delineated and described in the SSA report for the purpose of analyzing the resiliency of sickle darter populations and the viability of the species. These units do not have a regulatory function. In

addition, this rule does not propose or designate critical habitat. We have determined that designation of critical habitat is prudent, but not determinable because we lacked specific information on the impacts of our designation (85 FR 71864). A careful assessment of the economic impacts that may occur due to a critical habitat designation is still ongoing, and we are in the process of working with States and other partners in acquiring the complex information needed to perform that assessment. A proposed rule to designate critical habitat will be published once we have the required information.

We understand that there may be confusion and concern about the effect of this listing and 4(d) rule and future critical habitat designation for the sickle darter. We encourage any landowners with an endangered or threatened species present on their properties and who think they carry out activities that may negatively impact that endangered or threatened species to work with the Service (see **FOR FURTHER INFORMATION CONTACT**). We can help those landowners determine whether a habitat conservation plan (HCP) or safe harbor agreement (SHA) may be appropriate for their needs. These plans or agreements provide for the conservation of the endangered or threatened species while providing the landowner with a permit for incidental take of the species during the course of otherwise lawful activities.

We have found that restrictions alone are neither an effective nor a desirable means for achieving the conservation of endangered and threatened species. We prefer to work collaboratively with private landowners, and strongly encourage individuals with listed species on their property to work with us to develop incentive-based measures such as SHAs or HCPs, which have the potential to provide conservation measures that effect positive results for the species and its habitat while providing regulatory relief for landowners. The conservation and recovery of endangered and threatened species, and the ecosystems upon which they depend, is the ultimate objective of the Act, and the Service recognizes the vital importance of voluntary, nonregulatory conservation measures that provide incentives for landowners in achieving that objective. In addition, as discussed under Provisions of the 4(d) Rule, below, we may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances, including economic hardship. Regulations governing permits are codified at 50 CFR 17.32.

Determination of Sickle Darter Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an ''endangered species'' as a species in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

The current conditions as assessed in the sickle darter SSA report show that the species exists in six populations, in six tributary systems within two ecoregions. Two populations, Little River and Emory River, have moderate resiliency, and four populations have low resiliency. Although there are six separate populations distributed within the upper Tennessee River drainage, redundancy is low because four populations have low resiliency. Representation is currently low because genetic variation has likely been reduced over time as populations became disconnected, isolated, and reduced in size. Further, representation has been diminished with the loss of the species from the Blue Ridge ecoregion. However, it is unlikely that the sickle darter is in danger of extinction from a near-term catastrophic event. The species' occurrence in separate rivers of two populations, which are both in moderate condition and regularly recruiting new age classes (generations), greatly diminishes the possibility that such an event would simultaneously cause extirpation of the two populations, nor is it likely that such an event would simultaneously have the same level of impact on the other four populations in low condition.

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we conclude that the risk factors acting on the sickle darter and its habitat, either singly or in combination, are not of sufficient imminence, intensity, or magnitude to indicate that the species is in danger of extinction now (an endangered species) throughout all of its range. Current and ongoing threats to the sickle darter include habitat loss or degradation stemming from hydrologic alteration by impoundments, including dams and other barriers; land development that does not incorporate best management practices (BMPs); and diminished water quality from point and non-point source pollution and siltation (Factor A). Neither overutilization, disease or predation appear to be a significant threat to the sickle darter. Habitat-related threats contribute to the negative effects associated with the species' reduced range and potential effects of climate change (Factor E). Although the species is State-listed throughout its current range, this protection and the existing regulatory mechanisms are not adequate to address the threats of habitat modification and climate change such that the species does not warrant listing.

Our analysis of the sickle darter's future conditions shows that the population and habitat factors used to determine resiliency, representation, and redundancy will continue to decline. The primary threats are currently acting on the species and are likely to continue into the future. We selected 50 years as the foreseeable future to assess the sickle darter's future condition because this timeframe includes projections from available models for urbanization, land use, and climate change, threats which will affect the status of the species over that timeframe. We selected this timeframe because over this period we can reliably predict both the threats to the species as well as the species' response to those threats.

The range of plausible future scenarios of the sickle darter's habitat conditions and water quality factors portend reduced viability into the future. Under the current trend scenario, resiliency is moderate in one population and low in two populations, and three populations are likely extirpated so that redundancy and representation are reduced. Under the worsening trend scenario, resiliency is low in two populations, and four populations are likely extirpated so that redundancy and representation are substantially reduced. This expected reduction in both the number and distribution of resilient populations is likely to make the species vulnerable to catastrophic disturbance. Thus, after assessing the best available information, we conclude

that the sickle darter is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity* v. *Everson,* 435 F. Supp. 3d 69 (D.D.C. 2020) (*Everson*), vacated the aspect of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (Final Policy; 79 FR 37578; July 1, 2014) that provided that the Service does not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we proceed to evaluate whether the species is endangered in any significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Everson,* we now consider whether there are any significant portions of the species' range where the species is in danger of extinction now (*i.e.,* endangered). In undertaking this analysis for the sickle darter, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered.

For the sickle darter, we considered the species viability in various portions, including whether threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale, which may indicate a portion is likely to have a different status. We examined the following current threats in the context of the species' viability: Habitat loss and degradation through siltation; water quality degradation; and impoundments, their effects, and the associated effects of the species' reduced range. We also examined the cumulative effects of these threats. Our analysis revealed that these threats are likely to continue into the foreseeable future, or approximately 50 years. Siltation and water quality degradation resulting from nutrients, pathogens, municipal and residential development, agriculture, and logging are present in all watersheds where the sickle darter occurs. Land use changes associated with extraction of energy resources (coal, oil, and gas) are restricted to the Clinch (including Emory River) and Powell River systems, but the stressors associated with these activities, including sedimentation and water quality degradation, also come from sources (*e.g.,* urbanization, grazing, logging) that are common to all watersheds where the species occurs. Isolation as a result of habitat fragmentation affects all sickle darter populations similarly, and all populations experience the effects of changing climate conditions similarly. Additionally, resiliency of the remaining populations would decline, as our continuing trends and worsening trends future scenarios respectively project three or four of the six extant populations will become extirpated. The Little River watershed has the highest amount of land affected by urbanization (development) currently, and that is projected to continue in the future (Service 2020a, pp. 86–87). However, current land use and future rates of land use change are not substantially different among the watersheds occupied by the six populations.

The populations in the North Fork Holston, Middle Fork Holston, Clinch, and Sequatchie rivers exhibit low current resiliency, and the cumulative effects of the other identified threats may impact those populations to a greater extent than more resilient populations. However, although the species occurs in a reduced area in these rivers from its historical condition and the Middle Fork Holston, Clinch, and Sequatchie rivers occupy a limited stream length, none of the four populations has physical habitat and water quality in low condition, and the habitat conditions in those areas are such that the sickle darter's requirements are presently being met.

Overall, the current threats are acting on the species and its habitat similarly across its range. After assessing the best available information, we found no portions of the species' range where the species is likely to have a different status from its rangewide status. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy, including the definition of ''significant'' that those court decisions held to be invalid.

Determination of Status

Our review of the best available scientific and commercial information indicates that the sickle darter meets the definition of a threatened species. Therefore, we are listing the sickle darter as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*https://ecos.fws.gov/ecp/species/9866,* or from our Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their ranges may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Once this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, North Carolina, Tennessee, and Virginia will be eligible for Federal funds to implement management actions that promote the protection or recovery of the sickle darter. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/service/financial-assistance.*

Please let us know if you are interested in participating in recovery efforts for the sickle darter. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph may include, but are not limited to, management and any other landscape-altering activities on Federal lands administered, or on private lands seeking funding, by Federal agencies, which may include, but are not limited to, the Tennessee Valley Authority, U.S. Department of Agriculture (USDA) U.S. Forest Service, USDA Farm Service Agency, USDA Natural Resources Conservation Service, and Federal Emergency Management Agency; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of a listed species. The discussion below regarding protective regulations under section 4(d) of the Act complies with our policy.

II. Critical Habitat

Prudency Determination

As described in the proposed listing rule, we have determined that designation of critical habitat for the sickle darter is prudent, but not determinable at this time (85 FR 71869–71870). There is currently no imminent threat of collection or vandalism identified under Factor B for this species, and identification and mapping of critical habitat is not expected to initiate any such threat. In our SSA report and proposed listing determination for the sickle darter, we determined that the present or threatened destruction, modification, or curtailment of habitat or range is a threat to the sickle darter and that those threats in some way can be addressed by the Act's section 7(a)(2) consultation measures. The species occurs wholly within the jurisdiction of the United States, and we are able to identify areas that meet the definition of critical habitat. Therefore, because none of the circumstances enumerated in our regulations at 50 CFR 424.12(a)(1) have been met and because there are no other circumstances the Secretary has identified for which this designation of critical habitat would be not prudent, we have determined that the designation of critical habitat is prudent for the sickle darter.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the sickle darter is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

For the sickle darter, the species' needs are sufficiently well known, but a careful assessment of the economic impacts that may occur due to a critical habitat designation is ongoing. Until these efforts are complete, information sufficient to perform a required analysis of the impacts of the designation is lacking, and, therefore, we find designation of critical habitat for the sickle darter to be not determinable at this time. In the future, we plan to

publish a proposed rule to designate critical habitat for the sickle darter concurrent with the availability of a draft economic analysis of the proposed designation.

III. Final Rule Issued Under Section 4(d) of the Act for the Sickle Darter

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened. The U.S. Supreme Court has noted that statutory language like ''necessary and advisable'' demonstrates a large degree of deference to the agency (see *Webster* v. *Doe,* 486 U.S. 592 (1988)). Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to the Service when adopting the prohibitions under section 9.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld rules developed under section 4(d) as a valid exercise of agency authority where they prohibited take of threatened wildlife or include a limited taking prohibition (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [her] with regard to the permitted activities for those species. [She] may, for example, permit taking, but not importation of such species, or [she] may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Exercising our authority under section 4(d) of the Act, we have developed a rule that is designed to address the sickle darter's specific threats and conservation needs. Although the statute does not require the Service to make a ''necessary and advisable'' finding with respect to the adoption of specific prohibitions under section 9, we find that this rule as a whole satisfies the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the sickle darter. As discussed above under Summary of Biological Status and Threats, we have concluded that the sickle darter is likely to become in danger of extinction within the foreseeable future primarily due to habitat degradation or loss stemming from hydrologic alterations by impoundments, including dams and other barriers; land development that does not incorporate BMPs; and diminished water quality from point and nonpoint source pollution and siltation. These threats contribute to the negative effects associated with the species' reduced range and the potential effects of climate change. The provisions of this 4(d) rule will promote conservation of the sickle darter by encouraging management of the landscape in ways that meet both watershed and riparian management considerations and the species' conservation needs. The provisions of this rule are one of many tools that the Service will use to promote the conservation of the sickle darter.

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et* seq.) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation.

This obligation does not change in any way for a threatened species with a species-specific 4(d) rule. Actions that result in a determination by a Federal agency of ''not likely to adversely affect'' continue to require the Service's written concurrence and actions that are ''likely to adversely affect'' a species require formal consultation and the formulation of a biological opinion.

Provisions of the 4(d) Rule

This 4(d) rule will provide for the conservation of the sickle darter by extending to the species the following prohibitions and provisions of section 9(a)(1) of the Act, except as otherwise authorized or permitted: Import or export; take; possession and other acts with unlawfully taken specimens; delivery, receipt, transport, or shipment in interstate or foreign commerce in the course of commercial activity; or sale or offer for sale in interstate or foreign commerce.

Threats to the species are noted above and described in detail under Summary of Biological Status and Threats. The most significant threat expected to affect the species in the foreseeable future is loss and fragmentation of habitat from siltation, water quality degradation, and impoundments. A range of activities have the potential to affect the sickle darter, including commercial activities, agriculture, resource extraction, and land development. Regulating take associated with these activities will help preserve the sickle darter's remaining populations, slow the rate of population decline, and decrease synergistic, negative effects from other stressors. Therefore, regulating take associated with activities that increase siltation, diminish water quality, alter stream flow, or reduce fish passage will help preserve and potentially provide for expansion of remaining populations and decrease synergistic, negative effects from other threats.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulations at 50

CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating intentional and incidental take will help preserve the species' remaining populations, slow their rate of decline, and decrease synergistic, negative effects from other threats. Protecting the sickle darter from direct forms of take, such as physical injury or killing, whether incidental or intentional, will help preserve and recover the species. Therefore, we prohibit intentional take of sickle darter, including, but not limited to, capturing, handling, trapping, collecting, or other activities. Also, as discussed above under Summary of Biological Status and Threats, habitat loss and degradation from stressors including impoundments, siltation, and water quality degradation are affecting the status of the sickle darter. Across the species' range, stream and water quality have been degraded physically by siltation; pollution and contaminants; stream channelization; removal of riparian vegetation; and impoundments due to development; agricultural practices; land conversion; forest activities not following BMPs; dams and barriers; and energy production and mining. Therefore, we prohibit incidental take of the sickle darter by destroying, altering, or degrading the habitat in any of the manners described above. Regulating incidental take associated with these activities will help preserve sickle darter populations, slow the rate of population decline, and decrease synergistic, negative effects from other stressors.

During the proposed rule's public comment period, we received comments on the exception for incidental take resulting from silvicultural practices and forest management activities and the proposed exclusion from that exception for activities occurring during the spawning period (see Summary of Comments and Recommendations, above). State-approved BMPs, when properly implemented, protect water quality and help conserve aquatic species, including the sickle darter. Forest landowners who properly implement those BMPs are helping conserve the darter, and this 4(d) rule is an incentive for all landowners to properly implement them to avoid any take implications. Further, those forest landowners who are third-party-certified (attesting to the sustainable management of a working forest) to a credible forest management standard are providing audited certainty that BMP implementation is taking place across the landscape.

To address any uncertainty regarding which silvicultural and forest management BMPs will satisfy this exception for incidental take resulting from silvicultural practices and forest management activities, our regulations specify the conditions that must be met. We revised our section 4(d) language to clarify that the BMPs must result in protection of the habitat features that provide for the breeding, feeding, sheltering, and dispersal needs of the sickle darter, which will provide for the conservation of the species. In waterbodies that support listed aquatic species, wider streamside management zones (SMZs) and modern BMPs are more effective at reducing sedimentation and maintaining lower water temperatures through shading (Fraser et al. 2012, p. 652). Sickle darters require good water quality, including low turbidity and negligible siltation in slow-flowing pools and riffles with a clean stream bottom substrate with stands of water willow or woody debris piles (Service 2020a, p. 14). A lack of these features limits the sickle darter's population abundance, growth, and dispersal of individuals. Aquatic habitat and suitable water quality can be maintained even during logging operations when streamside vegetation is left intact (Virginia Department of Forestry (VDOF) 2011, p. 37). The exception for incidental take associated with these activities seeks to ensure these characteristics are maintained for the conservation of the sickle darter.

Under this final 4(d) rule, all prohibitions and provisions of section 9(a)(1) of the Act apply to the sickle darter, except that incidental take resulting from the following actions will not be prohibited:

(1) Channel restoration projects that create natural, physically stable, ecologically functioning streams (or stream and wetland systems) and that take place between April 1 and January 31. These projects can be accomplished using a variety of methods, but the desired outcome is a natural channel with low shear stress (force of water moving against the channel); bank heights that enable reconnection to the floodplain; a reconnection of surface and groundwater systems, resulting in perennial flows in the channel; riffles and pools composed of existing soil, rock, and wood instead of large imported materials; low compaction of soils within adjacent riparian areas; and inclusion of riparian wetlands.

(2) Bank stabilization projects that use bioengineering methods to replace pre-existing, bare, eroding stream banks with vegetated, stable stream banks, thereby reducing bank erosion and instream sedimentation and improving habitat conditions for the species and that take place between April 1 and January 31. Following these bioengineering methods, stream banks may be stabilized using native species live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), native species live fascines (live branch cuttings, usually willows, bound together into long, cigar shaped bundles), or native species brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill). Native species vegetation includes woody and herbaceous species appropriate for the region and habitat conditions. These methods will not include the sole use of quarried rock (riprap) or the use of rock baskets or gabion structures.

(3) Bridge and culvert replacement/removal projects or low head dam removal projects that remove migration barriers or generally allow for improved upstream and downstream movements of sickle darters while maintaining normal stream flows, preventing bed and bank erosion, and improving habitat conditions for the species and that take place between April 1 and January 31.

(4) Transportation projects that provide for fish passage at stream crossings and that take place between April 1 and January 31.

(5) Silvicultural practices and forest management activities that implement State-approved BMPs. In order for this exception to apply to forestry-related activities, these BMPs must achieve all of the following:

(a) Establish a streamside management zone alongside the margins of each waterway.

(b) Restrain visible sedimentation caused by the forestry-related activity from entering the waterway.

(c) Maintain native groundcover within the streamside management zone of the waterway, and promptly re-establish native groundcover if disturbed.

(d) Limit installation of vehicle or equipment crossings of the waterway to only where necessary for the forestry-related activity. Such crossings must:

- Have erosion and sedimentation control measures installed to divert surface runoff away and restrain visible sediment from entering the waterway;
- Allow for movement of aquatic organisms within the waterway; and
- Have native groundcover applied and maintained through completion of the forestry-related activity.

(e) Prohibit the use of tracked or wheeled vehicles for reforestation site

preparation within the streamside management zone of the waterway.

(f) Prohibit locating log decks, skid trails, new roads, and portable mill sites in the streamside management zone of the waterway.

(g) Prohibit obstruction and impediment of the flow of water within the waterway that is caused by direct deposition of debris or soil by the forestry-related activity.

(h) Maintain shade over the waterway similar to that observed prior to the forestry-related activity.

(i) Prohibit discharge of any solid waste, petroleum, pesticide, fertilizer, or other chemical into the waterway.

Habitat restoration actions excepted by the 4(d) rule may result in some minimal level of harm or temporary disturbance to the sickle darter. For example, a culvert replacement project would likely elevate suspended sediments for several hours and the darters would need to move out of the sediment plume to resume normal feeding behavior. Overall, habitat restoration activities and silvicultural activities that implement State-approved BMPs benefit the species by expanding suitable habitat and reducing within-population fragmentation, contributing to conservation and recovery, and are expected to have a net benefit. Across the species' range, instream habitats have been degraded physically by sedimentation and by direct channel disturbance. The activities in the 4(d) rule will correct some of these problems, creating more favorable habitat conditions for the species.

This 4(d) rule also contains certain standard exceptions to the prohibitions. We may issue permits to carry out otherwise prohibited activities, including those described above, involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

We recognize the special and unique relationship with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, candidate, and at-risk species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist the Service in implementing all aspects of the Act. In this regard, section 6 of the Act provides that the Service shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, will be able to conduct activities designed to conserve the sickle darter that may result in otherwise prohibited take without additional authorization.

Nothing in this 4(d) rule will change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the sickle darter. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between Federal agencies and the Service.

Required Determinations

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

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act in connection with listing species and designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have identified no Tribal interests that will be affected by this rule.

References Cited

A complete list of references cited in this rule is available on the internet at *https://www.regulations.gov* and upon request from the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are the staff members of the U.S. Fish and Wildlife Service's Species Assessment Team and the Tennessee Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11, in paragraph (h), by adding an entry for ''Darter, sickle'' in alphabetical order under FISHES to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
FISHES				
*	*	*	*	*
Darter, sickle	*Percina williamsi*	Wherever found	T	87 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], 11/8/2022; 50 CFR 17.44(ee).[4d]
*	*	*	*	*

■ 3. Amend § 17.44 by adding paragraph (ee) to read as follows:

§ 17.44 Special rules—fishes.

* * * * *

(ee) Sickle darter (*Percina williamsi*).

(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the sickle darter. Except as provided under paragraphs (ee)(2) and (3) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *General exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take, as set forth at § 17.21(c)(2) through (4) for endangered wildlife.

(iii) Take, as set forth at § 17.31(b).

(iv) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

(3) *Exceptions from prohibitions for specific types of incidental take.* You may take sickle darter while carrying out the following legally conducted activities in accordance with this paragraph (ee)(3):

(i) Channel restoration projects that create natural, physically stable, ecologically functioning streams (or stream and wetland systems) and that take place between April 1 and January 31. These projects can be accomplished using a variety of methods, but the desired outcome is a natural channel with low shear stress (force of water moving against the channel); bank heights that enable reconnection to the floodplain; a reconnection of surface and groundwater systems, resulting in perennial flows in the channel; riffles and pools composed of existing soil, rock, and wood instead of large imported materials; low compaction of soils within adjacent riparian areas; and inclusion of riparian wetlands.

(ii) Bank stabilization projects that use bioengineering methods to replace pre-existing, bare, eroding stream banks with vegetated, stable stream banks, thereby reducing bank erosion and instream sedimentation and improving habitat conditions for the species and that take place between April 1 and January 31. Following these bioengineering methods, stream banks may be stabilized using native species live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), native species live fascines (live branch cuttings, usually willows, bound together into long, cigar shaped bundles), or native species brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill). Native species vegetation includes woody and herbaceous species appropriate for the region and habitat conditions. These methods will not include the sole use of quarried rock (riprap) or the use of rock baskets or gabion structures.

(iii) Bridge and culvert replacement/removal projects or low head dam removal projects that remove migration barriers or generally allow for improved upstream and downstream movements of sickle darters while maintaining normal stream flows, preventing bed and bank erosion, and improving habitat conditions for the species and that take place between April 1 and January 31.

(iv) Transportation projects that provide for fish passage at stream crossings and that take place between April 1 and January 31.

(v) Silvicultural practices and forest management activities that implement State-approved best management practices. In order for this exception to apply to forestry-related activities, these best management practices must achieve all of the following:

(A) Establish a streamside management zone alongside the margins of each waterway.

(B) Restrain visible sedimentation caused by the forestry-related activity from entering the waterway.

(C) Maintain native groundcover within the streamside management zone of the waterway, and promptly re-establish native groundcover if disturbed.

(D) Limit installation of vehicle or equipment crossings of the waterway to only where necessary for the forestry-related activity. Such crossings must:

(*1*) Have erosion and sedimentation control measures installed to divert surface runoff away and restrain visible sediment from entering the waterway;

(*2*) Allow for movement of aquatic organisms within the waterway; and

(*3*) Have native groundcover applied and maintained through completion of the forestry-related activity.

(E) Prohibit the use of tracked or wheeled vehicles for reforestation site preparation within the streamside management zone of the waterway.

(F) Prohibit locating log decks, skid trails, new roads, and portable mill sites in the streamside management zone of the waterway.

(G) Prohibit obstruction and impediment of the flow of water within the waterway that is caused by direct deposition of debris or soil by the forestry-related activity.

(H) Maintain shade over the waterway similar to that observed prior to the forestry-related activity.

(I) Prohibit discharge of any solid waste, petroleum, pesticide, fertilizer, or other chemical into the waterway.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–23618 Filed 11–7–22; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 87, No. 215
Tuesday, November 8, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 37

[Docket No. PRM–37–2; NRC–2021–0051]

Advance Tribal Notification of Certain Radioactive Material Shipments

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; consideration in the rulemaking process.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will consider in its rulemaking process the issue raised in a petition for rulemaking (PRM), PRM–37–2, submitted by Richard Arnold and Ron Johnson, on behalf of the Tribal Radioactive Materials Transportation Committee, dated December 4, 2020. The petitioner requests that the NRC amend its regulations to include advance Tribal notification of certain radioactive material shipments.

DATES: The docket for the petition for rulemaking, PRM–37–2, is closed on November 8, 2022.

ADDRESSES: Please refer to Docket ID NRC–2021–0051 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0051. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8342, email: *Vanessa.Cox@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. The Petition
II. Public Comments on the Petition
A. Comments Supporting the Petition
B. Comments Out of the Scope of the Petition
III. Reasons for Consideration
IV. Availability of Documents
V. Conclusion

I. The Petition

The NRC received and docketed a petition for rulemaking (ADAMS Accession No. ML21042B011) dated December 4, 2020, filed by Richard Arnold and Ron Johnson, on behalf of the Tribal Radioactive Materials Transportation Committee (TRMTC). On April 9, 2021, the NRC published a notice of docketing and request for comment in the **Federal Register** (86 FR 18477). The petitioner requests that the NRC amend its regulations in part 37 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material,'' to include advance Tribal notification requirements similar to existing State notification requirements.

The NRC identified one issue in the petition, as follows: [1]

Issue: In 10 CFR part 37, the requirement for licensees to provide advance notification of certain radioactive material shipments only involves State government notifications and does not include Tribal government notifications. In contrast, the advance notification provisions of 10 CFR part 71, ''Packaging and Transportation of Radioactive Material,'' and 10 CFR part 73, ''Physical Protection of Plants and Materials,'' require licensees to provide advance notification to both State and Tribal governments for certain shipments. TRMTC states it is ''concerned with the divergence that exists in Part 37 in contrast to the content that is provided in Parts 71 and 73.'' The petitioner also states that ''consistent notification standards must be applied to states and tribal governments as well as constituencies under their respective jurisdictions.''

II. Public Comments on the Petition

The notice of receipt and docketing for the PRM invited interested persons to submit comments. The comment period closed on June 23, 2021. The NRC received 10 comment submissions comprising 63 comments from interested stakeholders, including the Nuclear Energy Institute, Midwestern Radioactive Materials Transportation Committee, Western Interstate Energy Board, High-Level Radioactive Waste Committee, Tribal Radioactive Materials Transportation Committee, Oneida Nation, The Navajo Nation, Pueblo of Sandia, and two private citizens.

The NRC binned the comments related to the petition into two categories. The following discussion provides a summary of each comment and the NRC's response to the comment. Within each bin, the NRC further grouped the comments by topic. The following discussion also provides a summary of each group of comments and the NRC's response to that group of comments.

[1] The petitioner also stated that NRC's amendment to Part 37 may encourage the U.S. Department of Energy (DOE) to revise DOE Order 460.2A, Department Materials Transportation and Packaging Management, to have tribes eligible to receive the same advanced notifications for applicable DOE shipments. Potential changes to DOE orders are outside the NRC's legal authority.

A. Comments Supporting the Petition

Comment: The NRC received several comments that supported the assertion made by the petitioner that consistent notification standards must be applied to States and Tribal governments. The commenters urged the NRC to examine these discrepancies and to take appropriate action to modify the language in 10 CFR part 37 to be consistent with 10 CFR part 71 and 10 CFR part 73 advance Tribal notification provisions.

NRC Response: The NRC agrees with this comment. As stated above, the NRC is planning to conduct rulemaking to revise 10 CFR part 37 to be consistent with advance Tribal notification standards provided in 10 CFR part 71 and 10 CFR part 73. This action is also supported by NRC's Tribal Policy Statement, which established the NRC's principles to promote effective Government-to-Government interactions with Federally recognized Tribes, and to encourage and facilitate Tribal involvement in the areas over which the Commission has jurisdiction.

Comment: Several commenters described the importance of consistency between regulations applicable to States and Tribes and stated that this concept reinforces NRC's Principles of Good Regulation.

Response: The NRC agrees with this comment. As stated above, the NRC is planning to conduct rulemaking to revise 10 CFR part 37 to be consistent with advance Tribal notification standards provided in 10 CFR part 71 and 10 CFR part 73.

Comment: Two commenters stated they believed the proposed rulemaking would benefit all stakeholders. Another commenter stated that the proposed amendment would benefit licensees by creating predictability in planning for conducting radioactive material transportation.

Response: The NRC agrees with these comments. Consistency and predictability of regulations is a goal stated in the NRC's Principles of Good Regulations, which is beneficial to the regulated community and the public.

Comment: One commenter supported the petition, stating that they believed the current petition is based on an apparent oversight of ensuring complete and rigorous efforts in the notification process.

Response: The NRC disagrees with the comment. The NRC specifically said that it may consider providing advance Tribal notification for 10 CFR part 37 radioactive material in the future when responding to a public comment concerning the ''Physical Protection of Byproduct Material'' rule. *See* 78 FR 16922, 16991 (March 19, 2013).

Comment: One commenter stated that a shipment of radioactive material that was subject to the 10 CFR part 37 notification requirements to the States went through Tribal land in 2020 without notification to Federally recognized Tribes. The lack of notice caused significant concerns for the Tribe and its residents.

Response: The NRC understands this concern. The proposed rulemaking would address notification of participating Tribes.

Comment: One commenter discussed implementation of the rule, such as requiring Tribes to submit a letter to the NRC to ''opt in'' to receive advance notification or requiring Tribes to comply with safeguards information training requirements that are currently in place for participation in the 10 CFR part 71 and 10 CFR part 73 advance Tribal notification program.

Response: The NRC will consider the issues raised in this comment during the rulemaking process.

Comment: Several commenters stated that Tribes govern themselves and the NRC needs to recognize them as sovereign governments.

Response: The NRC agrees with this comment. The NRC recognizes the right of each Indian Tribe to self-governance and supports Tribal sovereignty and self-determination. In the Tribal Policy Statement, Principle 2 states that the NRC recognizes Tribal governments as independent from State governments, with separate and distinct authorities with inherent sovereign powers over their members and territory, consistent with applicable statutes and authorities.

Comment: Two commenters stated that Tribal governments need to be recognized and acknowledged with the same treatment and respect as States, and that they have the right to be notified if radioactive materials are being shipped through their lands.

Response: The NRC agrees with this comment. The NRC recognizes the need for States and Tribes to have consistent treatment for advance notification for Category 1 radioactive material shipments and plans to conduct rulemaking to address this issue.

Comment: The NRC received several comments underlining the importance of advance Tribal notification of radioactive shipments in order to allow the Tribes adequate time to prepare to respond in the event of an incident or accident. Several commenters also stated the importance of the Tribes' emergency support function, participation in emergency training, and commitment to protecting their Tribal lands as reasons for receiving advance notification of shipments across Tribal lands.

NRC Response: The NRC agrees with these comments and plans to conduct rulemaking to amend its regulations to improve consistency for advance Tribal notifications for Category 1 radioactive material. In accordance with Tribal Policy Statement, Principle 2, the NRC recognizes Tribal sovereignty, independent from State governments and Tribal governments' interest in being informed of activities occurring on Tribal lands.

Comment: Several commenters identified the importance for States and Tribes to coordinate and communicate for successful planning of shipments. Other commenters indicated effective communication is paramount in the instance of hazardous, radioactive material transport. Another comment stated that the public's perception of these shipments is not materially altered by the different regulatory categories, and thus the Tribes' public information responsibilities would be much the same as for irradiated reactor fuel and special nuclear material, regardless of the different types of materials being moved.

Response: The NRC agrees with the comments. The NRC's view is that the importance of communication between the States, Tribes, and the public supports the NRC's plan to conduct this rulemaking.

B. Comments Outside the Scope of the Petition

Three comments within the comment submissions were beyond the scope of the petitioner's request. They are summarized below.

Comment: One comment submission discussed irradiated fuel rods and how they can be rendered harmless using liquid nitrogen.

Response: This comment is outside the scope of the petitioner's request for the NRC to revise 10 CFR part 37 to require advance Tribal notification of shipments for Category 1 radioactive materials.

Comment: One commenter discussed the lack of consultation regarding the determination of transport routes and availability of resources, training, and infrastructure for Tribal emergency preparedness, response, and risk management in potential incidences of accidental radiological release during shipment.

Response: This comment is outside the scope of the petitioner's request that the NRC revise 10 CFR part 37 to require advance Tribal notification of shipments for Category 1 radioactive materials.

Specifically, the commenters' topics regarding consultation for transportation routes, the availability of resources, training and infrastructure for Tribal emergency preparedness, response, and risk management are outside the scope of the petitioner's request.

Comment: One commenter discussed the importance of advanced notification to States and Tribes for shipments of Category 1 and Category 2 quantities of radioactive material.

Response: This comment is outside the scope of the petitioner's request that the NRC revise 10 CFR part 37 to require advance Tribal notification for shipments of Category 1 radioactive materials. The requirements in 10 CFR part 37 are only for advance notification of Category 1 radioactive materials and do not mention advance notification requirements for Category 2 quantities of radioactive materials. Advance Tribal notification for shipments of Category 2 quantities of radioactive material is outside the scope of the petitioner's request.

III. Reasons for Consideration

The NRC will consider the issue raised in the PRM in its rulemaking process because the NRC recognizes Tribal sovereignty and Tribal governments' interest in being informed of Category 1 radioactive material shipments that would pass through Federally recognized Tribal reservations. Revising 10 CFR part 37 would provide consistency with 10 CFR part 71 and 10 CFR part 73 regarding advance Tribal notification of certain radioactive material shipments, implement the principles in the Tribal Policy Statement, and further the NRC's commitment to its Principles of Good Regulation.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./ **Federal Register** citation
PRM–37–2–R. Arnold & R. Johnson on Behalf of the Tribal Radioactive Materials Transportation on Advance Tribal Notification of Certain Radioactive Material Shipments, December 4, 2020.	ML21042B011.
PRM–37–2, Notice of Docketing and Request for Comment, April 9, 2021	86 FR 18477.
Comment Submission (001) from Brendan VanAntwerp, April 10, 2021	ML21109A268.
Comment Submission (002) from the Nuclear Energy Institute, June 15, 2021	ML21168A095.
Comment Submission (003) from Valery Andrus, June 16, 2021	ML21168A096.
Comment Submission (004) from the Midwestern Radioactive Materials Transportation Committee, June 17, 2021	ML21175A162.
Comment Submission (005) from the Western Interstate Energy Board High-Level Radioactive Waste Committee, June 22, 2021.	ML21175A160.
Comment Submission (006) from the Tribal Radioactive Materials Transportation Committee, June 22, 2021	ML21175A158.
Comment Submission (007) from the Oneida Nation, June 23, 2021	ML21175A157.
Comment Submission (008) from the Navajo Nation Environmental Protection Agency, June 23, 2021	ML21175A156.
Comment Submission (009) from Governor Stuart Paisano on Behalf of Pueblo of Sandia, New Mexico, June 7, 2021.	ML21175A357.
Comment Submission (010) from the Tribal Radioactive Materials Transportation Committee, June 23, 2021	ML21182A122.
Tribal Policy Statement, January 9, 2017	82 FR 2402.
Principles of Good Regulation	*https://www.nrc.gov/about-nrc/values.html#principles.*

V. Conclusion

For the reasons cited in this document, the NRC will consider the issue raised in the petition in its rulemaking process. The public can monitor further NRC action on the rulemaking titled, ''Advance Tribal Notification of Certain Radioactive Material Shipments,'' that will address the issue in this petition by searching for Docket ID NRC–2021–0051 on the Federal rulemaking website, *https://www.regulations.gov.* In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2021–0051); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link. Publication of this document in the **Federal Register** closes Docket ID NRC–2021–0051 for PRM–37–2.

Dated: November 3, 2022.

For the Nuclear Regulatory Commission.

Brooke P. Clark,

Secretary of the Commission.

[FR Doc. 2022–24351 Filed 11–7–22; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2021–0638]

Airworthiness Criteria: Special Class Airworthiness Criteria for the Joby Aero, Inc. Model JAS4–1 Powered-Lift

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed airworthiness criteria.

SUMMARY: The FAA announces the availability of, and requests comments on, the proposed airworthiness criteria for the Joby Aero, Inc. (Joby) Model JAS4–1 powered-lift. This document proposes airworthiness criteria the FAA finds to be appropriate and applicable for the powered-lift design.

DATES: The FAA must receive comments by December 8, 2022.

ADDRESSES: Send comments identified by docket number FAA–2021–0638 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 8 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

William Penzes, Jr., Center for Emerging Technology and Innovation (CETI) Branch, AIR–650, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 950 L'Enfant Plaza SW, Washington, DC 20591; telephone and fax 202–267–1588; email *william.b.penzes@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested people to take part in the development of proposed airworthiness criteria for the Joby Model JAS4–1 powered-lift by sending written comments, data, or views. Please identify the Joby Model JAS4–1 and Docket No. FAA–2021–0638 on all submitted correspondence. The most helpful comments reference a specific portion of the airworthiness criteria, explain the reason for a recommended change, and include supporting data.

Except for Confidential Business Information as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed airworthiness criteria. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these airworthiness criteria based on received comments.

Confidential Business Information

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 notice 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 notice, 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 notice. Submissions containing CBI should be sent to the individual listed under ''For Further Information Contact.'' Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this notice.

Background

The Joby Model JAS4–1 powered-lift has a maximum gross takeoff weight of 4,800 lbs and is capable of carrying a pilot and four passengers. The aircraft uses six tilting electric engines with 5-blade propellers attached to a conventional wing and V-tail.[1] The aircraft structure and propellers are constructed of composite materials. As a powered-lift, the Joby Model JAS4–1 has the characteristics of both a helicopter and an airplane. The Model JAS4–1 is intended to be used for part 91 and part 135 operations, with a single pilot onboard, under visual flight rules.

On November 2, 2018, Joby applied for a type certificate for the Model JAS4–1 powered-lift. Under 14 CFR 21.17(c), Joby's application for type certification is effective for three years. Section 21.17(d) provides that, where a type certificate has not been issued within that three-year time limit, the applicant may file for an extension and update the designated applicable regulations in the type certification basis. Because the project was not certificated within three years after the application date above, the FAA approved the applicant's request to extend the application for type certification. As a result, the date of the updated type certification basis is June 14, 2022.

Discussion

Because the FAA has not yet established powered-lift airworthiness standards in title 14 CFR, the FAA type certificates powered-lift as special class aircraft. Under the procedures in 14 CFR 21.17(b), the airworthiness requirements for special class aircraft are the portions of the requirements in 14 CFR parts 23, 25, 27, 29, 31, 33, and 35 found by the FAA to be appropriate and applicable to the specific type design and any other airworthiness criteria found by the FAA to provide an equivalent level of safety to the existing standards. This notice announces the applicable regulations and other airworthiness criteria developed, under § 21.17(b), for type certification of the Joby Model JAS4–1 powered-lift.

The Model JAS4–1 powered-lift has characteristics of both a rotorcraft and an airplane. It is designed to function as a helicopter for takeoff and landing and as an airplane cruising at higher speeds than a helicopter during the en-route portion of flight operations. The electric engines on the Joby Model JAS4–1 powered-lift will use electrical power instead of air and fuel combustion to propel the aircraft through six 5-bladed composite variable-pitch propellers. The propeller blade pitch is electronically controlled and the blades are asymmetrically spaced around the hub for acoustic noise reduction. Accordingly, the Joby Model JAS4–1 powered-lift proposed airworthiness criteria contain standards from parts 23, 33, and 35 as well as other proposed airworthiness criteria specific for a powered-lift.

For the existing regulations that are included without modification, these proposed airworthiness criteria include all amendments to the existing part 23, 33, and 35 airworthiness standards in effect as of the application date of June 14, 2022. These are part 23, amendment 23–64, part 33, amendment 33–34, and part 35, amendment 35–10.

The Joby Model JAS4–1 powered-lift proposed airworthiness criteria also include new performance-based criteria consisting of part 23 standards as modified by amendment 23–64. The FAA developed these criteria because no existing standard captures the powered-lift's transitional flight modes. The proposed criteria also contain definitions specific for a powered-lift, such as flight modes, configurations, speeds, and terminology. Additionally, electric-engine and related propeller airworthiness criteria are proposed. The

[1] A V-Tail aircraft design incorporates two slanted tail surfaces instead of the horizontal and vertical fins of a conventional aircraft empennage. The two fixed tail surfaces of a V-Tail act as both horizontal and vertical stabilizers and each has a moveable flight-control surface referred to as a ruddervator.

new requirements specific to the Joby Model JAS4–1 use a ''JS4.xxxx'' section-numbering scheme.

The FAA selected and designed the particular airworthiness criteria proposed in this notice for the following reasons:

Aircraft-Level Requirements

The proposed installation requirements for cockpit voice and flight data recorders remain unchanged from the normal category airplane airworthiness standards in part 23. The proposed requirement to prepare Instructions for Continued Airworthiness accounts for the applicant's option to install type certificated engines and propellers or to seek approval of the engines and propellers under the aircraft type certificate.

General

The proposed airworthiness criteria include new or modified definitions to explain the unique capabilities and flight phases of the Joby Model JAS4–1 and the meaning of certain terms used in regulations that have been incorporated by reference. In the event of a loss of engine power, airplanes and rotorcraft inherently have the ability to glide or autorotate, respectively. Although the aircraft may sustain damage, the ability to glide or autorotate allows the aircraft to reasonably protect the occupants. However, not all powered-lift have these capabilities. To address this, the FAA proposes a definition for ''continued safe flight and landing,'' unique for the Model JAS4–1, that modifies language from the existing definition in § 23.2000; the FAA also proposes a new definition for ''controlled emergency landing'' to capture the level of performance the Model JAS4–1 must meet, equivalent to a glide or autorotation.

In addition, because many of the proposed airworthiness criteria are performance-based, like the regulations found in part 23, the FAA has proposed to adopt § 23.2010 by reference, which would require that the means of compliance used to comply with these proposed airworthiness criteria be accepted by the Administrator. Because no powered-lift consensus standards are currently accepted by the Administrator, the means of compliance for the Joby Model JAS4–1 aircraft will be accepted through the issue paper process.[2]

[2] See Order 8110.112A, *Standardized Procedures for Usage of Issue Papers and Development of Equivalent Levels of Safety Memorandums.*

Flight

Although part 23 (amendment 23–64) replaced prescriptive design requirements with performance-based rules that are more easily adaptable to new and novel technology, these performance-based rules were written for conventionally configured airplanes equipped with reversible flight controls for fixed-wing takeoff and landing operations. To accommodate Joby's ability to engage in vertical takeoff and landing operations, these proposed airworthiness criteria adopt language from parts 27 and 29, where appropriate, with changes to allow for safe operation of the powered-lift below the stall speed of the wing. The FAA developed proposed criteria to address the integration of alternating sources of lift: thrust-borne, semi-thrust-borne, and wing-borne. While the FAA has experience certifying indirect flight-control systems such as fly-by-wire systems, Joby's design uses a unique, integrated flight- and propulsion-control system that requires new airworthiness criteria.

In addition, the FAA proposes a new JS4.2105, which incorporates all of § 23.2105 and adds criteria in new paragraphs (f) and (g). Proposed JS4.2105(f) and (g) would ensure the pilot is capable of executing a controlled emergency landing in the event of a loss of power or thrust, whether by the aircraft's ability to glide or autorotate, or through an equivalent means that reasonably protects occupants.

Powerplant

Part 23 (amendment 23–64) addresses electric propulsion, but only for conventionally configured airplanes that use propulsion for forward thrust. Joby's new and novel design uses a distributed propulsion system to provide forward thrust, lift, and control. While some of these design features can be addressed by existing airworthiness standards in parts 23 and 27, other features require the development of new airworthiness criteria. The proposed airworthiness criteria address the following unique and novel powerplant installation features:

- multi-engine isolation in a distributed propulsion system,
- simplified control of distributed propulsion,
- integration of a propulsion system into aircraft flight controls, and
- energy-system crashworthiness associated with vertical takeoff and landing capability.

The proposed airworthiness criteria in JS4.2405 combine engine and propeller control functions from § 23.2405 and § 23.2425 and revise the application to capture all powerplant control functions including engine control, propeller control, and nacelle rotation. Energy system airworthiness criteria in proposed JS4.2430 would include a requirement to address energy system crashworthiness to capture the intent of § 27.952 and would delete requirements specific to liquid fuel systems. The powerplant fire-protection airworthiness criteria in proposed JS4.2440 would replace prescriptive language from § 23.2440 for designated fire zones, with generalized fire-zone language to address all powerplant-related fire threats. Electric propulsion systems introduce new fire threats from high-voltage electrical power and battery systems. Designated fire zones assume a kerosene-based fire threat, which is inconsistent with fire threats from electric powerplant installations. These proposed criteria are intended to allow for safe operation of the powered-lift using an all-electric distributed propulsion system for thrust-borne, semi-thrust-borne, and wing-borne flight.

Structures

The flight and ground loads for powered-lift are generally comprised of three types of flight configurations: vertical, transition, and forward. The proposed airworthiness criteria are not taken solely from the forward-flight requirements of part 23 (for airplanes) or the vertical-flight requirements of part 27 (for rotorcraft). Powered-lift also rely on a transitional type of lift, which may include a combination of forward and vertical flight loads. The aerodynamic flow field around the powered-lift during transitional type of lift can be considerably different from what is traditionally observed during forward and vertical flight. In some flight configurations, the powered-lift may experience a combination of forward and vertical flight loads (forces). In other configurations, the aircraft may undergo a completely new type of aerodynamic flow field, not experienced during strictly forward or vertical flight. Traditional existing airworthiness standards do not adequately represent the aerodynamic loads, used for structural design, of a powered-lift. Therefore, the FAA finds that additional airworthiness criteria are necessary for structural design. The FAA created JS4.2200 and JS4.2225 by revising §§ 23.2200 and 23.2225 to address the powered-lift structural design envelope. The FAA created JS4.2240 by revising § 23.2240 to remove level 4 airplane requirements, because the Joby Model JAS–4 aircraft is not a level 4 airplane.

In addition, the FAA proposes a new JS4.2320, which incorporates all of § 23.2320 except for § 23.2320(b). Proposed JS4.2320(b) contains a new bird strike requirement specific for the applicant's design. The FAA recognizes the threat from bird strike in the environment in which these aircraft are intended to operate is more severe than the environment that rotorcraft or part 23 fixed wing aircraft operate in today. The Model JAS4–1 has inherent design features and expected operations that potentially expose the aircraft to a higher probability of impact with birds.

The Model JAS4–1 will operate at altitudes similar to rotorcraft, and the FAA expects it will cruise at airspeeds that are the same as or greater than rotorcraft. However, the FAA expects the Model JAS4–1 will spend less time in hover compared to rotorcraft, increasing high-speed flight time. The FAA also recognizes that the JAS4–1 will be much quieter than conventional helicopter turboshaft engines and rotors. As a result, birds will have fewer cues to the existence of the vehicle due to quiet approach environments.

All of these factors combined increase the aircraft's exposure to birds. Accordingly, the FAA proposes a more comprehensive bird strike requirement for the Model JAS4–1. As cited in the Aviation Rulemaking Advisory Committee (ARAC) Rotorcraft Bird Strike Working Group (RBSWG) report,[3] an analysis of bird strike threats against rotorcraft showed the median bird size for birds involved in damaging strikes was 1.125 kg (2.5 lb). Based on that research, the FAA proposes a bird impact size of 1.0 kg (2.2-lb), consistent with rotorcraft industry testing. The applicant must perform an evaluation at the aircraft level to determine what parts of the aircraft are exposed to potential bird strikes.

The FAA also proposes a requirement for bird deterrence devices to reduce the potential for bird strikes. Research, testing, and use of bird-deterrence technology has shown to be effective in reducing bird strikes.[4] Alerting birds to the presence of the aircraft allows birds to avoid striking the aircraft. Bird deterrence systems may include, for example, light technology to aid birds in detecting and avoiding the aircraft.

Electric Engines

The electric engines proposed for installation on the Joby Model JAS4–1 powered-lift use electric power instead of air-and-fuel combustion to propel the aircraft. These electric engines are designed, manufactured, and controlled differently than aircraft engines that operate using aviation fuel. These engines are built with an electric motor, a controller, and a high-voltage system that draws energy from electrical storage or generating systems. The engines in the Joby Model JAS4–1 aircraft are devices that convert electrical energy into mechanical energy; electric current flowing through wire coils in the motor produces a magnetic field that interacts with magnets on the rotating armature shaft. The controller is a system that consists of two main functional elements: the motor controller and an electric-power quad inverter to drive the four motors associated with an electric engine. The four motors include the drive motor, functioning as the electric engine; the position motor for adjusting propeller pitch; the position motor for the engine-tilt function; and the motor for cooling-system operation. The high-voltage system is a combination of wires, power-conditioning components, and connectors that couple an energy source to an electric engine, associated motors, and a controller.

The technology required to provide energy through these high-voltage and high-current electronic components introduces potential hazards that do not exist in aircraft engines that operate using aviation fuel. For example, high-voltage transmission lines, electromagnetic fields, magnetic materials, and high-speed electrical switches form the electric engine's physical properties. Operating at these high power levels also exposes the electric engines to potential failures, which could adversely affect safety, and that are not common to aircraft engines that operate using aviation fuel.

Propellers

Part 35 contains airworthiness standards to ensure that uninstalled propellers meet the minimum level of safety that the FAA deems acceptable. Part 35 requirements are appropriate for propellers that are installed on conventional airplanes, type certificated under part 23 or part 25, that have construction and blade-pitch actuation methods typically found on such airplanes.

Emerging electric-powered and hybrid electric-powered aircraft, especially electric powered-lift that are intended for ''air taxi'' type operations in and near urban areas and capable of vertical and short takeoff and landing, often feature propellers designed for both horizontal thrust and vertical lift. In addition, propeller blade-pitch actuation for such aircraft typically is performed electrically, and is more extensively integrated into the aircraft's propulsion and flight-control system compared to conventional airplanes type certificated under part 23 or part 25.

Propellers are integral parts of a variety of airplane propulsion systems and, until the advent of electric engines, have been subjected to the forces of fossil-fuel-powered reciprocating and turbine combustion engines. Electric engines present different considerations due to the increased torque and potentially higher revolutions per minute.

The most basic requirement, for all conventional part 23 and 25 aircraft as well as the Joby JAS4–1 aircraft, is to reduce the risk of propeller failure or release of debris to the occupants and critical aircraft structures and components to an acceptable level. Features and characteristics of propellers must ensure that they are safe for the certification application requested.

These proposed airworthiness criteria would require functional engine demonstrations, including feathering, negative torque, negative thrust, and reverse-thrust operations, as appropriate, using a representative propeller. The applicant may conduct these demonstrations as part of the endurance and durability demonstrations.

Applicability

These airworthiness criteria, established under the provisions of § 21.17(b), are applicable to the Joby Model JAS4–1 powered-lift. Should Joby wish to apply these airworthiness criteria to other powered-lift models, it must submit a new application for a type certificate.

Proposed Airworthiness Criteria

The FAA proposes to establish the following airworthiness criteria for type certification of the Joby Model JAS4–1 powered-lift. The FAA proposes that compliance with the following criteria will provide an equivalent level of safety to existing rules.

Aircraft-Level Requirements

Sec. 23.1457 Cockpit Voice Recorders

(a) through (g) [Applicable to JAS4–1]

Sec. 23.1459 Flight Data Recorders

(a) through (e) [Applicable to JAS4–1]

[3] ARAC RBSWG Report, Rev. B, May 8, 2019, page 15, Section ''Bird Mass'' (ARAC RBSWG Report), *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3964*.

[4] ARAC RBSWG Report, page 48–50.

JS4.1529 Instructions for Continued Airworthiness

The applicant must prepare Instructions for Continued Airworthiness (ICA), in accordance with Appendices A, A1, and A2, that are acceptable to the Administrator. ICA for the aircraft, engines, and propellers may be shown in a single aircraft ICA manual if the engine and propeller approvals are sought through the aircraft certification program. Alternatively, the applicant may provide individual ICA for the aircraft, engines, and propellers. The instructions may be incomplete at the time of type certification if a program exists to ensure their completion prior to delivery of the first aircraft, or issuance of a standard certificate of airworthiness, whichever occurs later.

Subpart A—General

JS4.2000 Applicability and Definitions

(a) These airworthiness criteria prescribe airworthiness standards for the issuance of a type certificate, and changes to that type certificate, for the Joby Aero, Inc. Model JAS4–1 powered-lift.

(b) For purposes of these airworthiness criteria, the following definitions apply:

(1) *Continued safe flight and landing* means an aircraft is capable of continued controlled flight and landing, possibly using emergency procedures, without requiring exceptional pilot skill or strength.

(2) *Phases of flight* means ground operations, takeoff, climb, cruise, descent, approach, hover, and landing.

(3) *Source of lift* means one of three sources of lift: thrust-borne, wing-borne, and semi-thrust-borne. Thrust-borne is defined as when the powered-lift is maneuvering in the vertical plane and lift is predominately from downward thrust. Wing-borne is defined as when the powered-lift is maneuvering in the horizontal plane and lift is predominately from fixed airfoil surfaces. Semi-thrust-borne is the combination of thrust-borne and wing-borne, where both forms of lift are applied.

(4) *Loss of power/thrust* means a condition when the aircraft can no longer provide the commanded power or thrust required for continued safe flight and landing.

(5) *Controlled emergency landing* means the pilot is capable of choosing the direction and area of touchdown, and the aircraft is capable of reasonably protecting occupants. Upon landing, some damage to the aircraft may be acceptable.

(c) Terms used in the part 23 provisions that are adopted in these airworthiness criteria are interpreted as follows:

''Airplane'' means ''aircraft.''

''This part'' means ''these airworthiness criteria.''

Sec. 23.2010 Accepted Means of Compliance

(a) through (b) [Applicable to JAS4–1]

Subpart B—Flight Performance

Sec. 23.2100 Weight and Center of Gravity

(a) through (c) [Applicable to JAS4–1]

JS4.2105 Performance Data

(a) Unless otherwise prescribed, an aircraft must meet the performance requirements of this subpart in still air and standard atmospheric conditions.

(b) Unless otherwise prescribed, the applicant must develop the performance data required by this subpart for the following conditions:

(1) Airport altitudes from sea level to 10,000 feet (3,048 meters); and

(2) Temperatures above and below standard day temperature that are within the range of operating limitations, if those temperatures could have a negative effect on performance.

(c) The procedures used for determining takeoff and landing performance must be executable consistently by pilots of average skill in atmospheric conditions expected to be encountered in service.

(d) Performance data determined in accordance with paragraph (b) of this section must account for losses due to atmospheric conditions, cooling needs, installation losses, downwash considerations, and other demands on power sources.

(e) The hovering ceiling, in and out of ground effect, must be determined over the ranges of weight, altitude, and temperature, if applicable.

(f) Continued safe flight and landing must be possible from any point within the flight envelope following a critical loss of thrust not shown to be extremely improbable.

(g) The aircraft must be capable of a controlled emergency landing, after loss of power or thrust, by gliding or autorotation, or an equivalent means, to mitigate the risk of loss of power or thrust.

JS4.2110 Minimum Safe Speed

The applicant must determine the aircraft minimum safe speed for each flight condition encountered in normal operations, including applicable sources of lift and phases of flight, to maintain controlled safe flight. The minimum safe speed determination must account for the most adverse conditions for each flight configuration.

JS4.2115 Takeoff Performance

(a) The applicant must determine takeoff performance accounting for flight envelope and obstacle safety margins.

(b) The applicant must determine takeoff performance accounting for any loss of thrust not shown to be extremely improbable.

JS4.2120 Climb Requirements

(a) The applicant must demonstrate minimum climb performance at each weight, altitude, and ambient temperature within the operating limitations using the procedures published in the flight manual.

(b) The applicant must demonstrate minimum climb performance accounting for any loss of thrust not shown to be extremely improbable.

JS4.2125 Climb Information

(a) The applicant must determine climb performance at each weight, altitude, and ambient temperature within the operating limitations using the procedures published in the flight manual.

(b) The applicant must determine climb performance accounting for any loss of thrust not shown to be extremely improbable.

JS4.2130 Landing

The applicant must determine the following, for standard temperatures at critical combinations of weight and altitude within the operational limits:

(a) The landing performance, assuming approach paths applicable to the aircraft.

(b) The approach, transition if applicable, and landing speeds, configurations, and procedures, which allow a pilot of average skill to land within the published landing performance consistently and without causing damage or injury, and which allow for a safe transition to the balked landing conditions of these airworthiness criteria, accounting for the minimum safe speed.

Flight Characteristics

JS4.2135 Controllability

(a) The aircraft must be controllable and maneuverable, without requiring exceptional piloting skill, alertness, or strength, within the operating envelope—

(1) At all loading conditions for which certification is requested;

(2) During all phases of flight while using applicable sources of lift;

(3) With likely flight-control or propulsion-system failure;

(4) During configuration changes;

(5) In all degraded flight-control-system operating modes not shown to be extremely improbable; and

(6) In thrust-borne operation, and must be able to land safely in wind velocities from zero to a wind limit appropriate for the aircraft from any azimuth angle.

(b) The applicant must determine critical control parameters, such as limited-control power margins, and if applicable, account for those parameters in developing operating limitations.

(c) It must be possible to make a smooth change from one flight condition to another (changes in configuration, and in source of lift and phase of flight) without exceeding the approved flight envelope.

JS4.2140 Trim

(a) The aircraft must maintain lateral and directional trim without further force upon, or movement of, the primary flight controls or corresponding trim controls by the pilot, or the flight-control system, under normal phases of flight while using applicable sources of lift in cruise.

(b) The aircraft must maintain longitudinal trim without further force upon, or movement of, the primary flight controls or corresponding trim controls by the pilot, or the flight-control system, under the following conditions:

(1) Climb.

(2) Level flight.

(3) Descent.

(4) Approach.

(c) Residual control forces must not fatigue or distract the pilot during normal operations of the aircraft and likely abnormal or emergency operations, including loss of thrust not shown to be extremely improbable on multi-engine aircraft.

JS4.2145 Stability

(a) Aircraft not certified for aerobatics must exhibit stable characteristics in normal operations and after likely failures of the flight and propulsion control system.

(b) No aircraft may exhibit any divergent longitudinal stability characteristic so unstable as to increase the pilot's workload or otherwise endanger the aircraft and its occupants.

JS4.2150 Minimum Safe Speed Flight Characteristics, Minimum Safe Speed Warning, and Spins

(a) The aircraft must have controllable minimum safe speed flight characteristics in straight flight, turning flight, and accelerated turning flight with a clear and distinctive minimum safe speed warning that provides sufficient margin to prevent inadvertent slowing below minimum safe speed.

(b) Aircraft not certified for aerobatics must not have a tendency to inadvertently depart controlled flight from thrust asymmetry after a critical loss of thrust.

(c) Aircraft certified for aerobatics that include spins must have controllable stall characteristics and the ability to recover within one and one-half additional turns after initiation of the first control action from any point in a spin, not exceeding six turns or any greater number of turns for which certification is requested, while remaining within the operating limitations of the aircraft.

(d) Spin characteristics in aircraft certified for aerobatics that includes spins must recover without exceeding limitations and may not result in unrecoverable spins—

(1) With any typical use of the flight or engine-power controls; or

(2) Due to pilot disorientation or incapacitation.

Sec. 23.2155 Ground and Water Handling Characteristics

[Applicable to JAS4–1]

Sec. 23.2160 Vibration, Buffeting, and High-Speed Characteristics

(a) [Applicable to JAS4–1]

(b) through (d) [Not applicable to JAS4–1]

JS4.2165 Performance and Flight Characteristics Requirements for Flight in Atmospheric Icing Conditions

(a) An applicant who requests certification for flight in atmospheric icing conditions must show the following in the icing conditions for which certification is requested:

(1) Compliance with each requirement of this subpart, except those applicable to spins and any that must be demonstrated at speeds in excess of—

(i) 250 knots calibrated airspeed (CAS);

(ii) V_{MO}/M_{MO} or V_{NE}; or

(iii) A speed at which the applicant demonstrates the airframe will be free of ice accretion.

(2) The means by which minimum safe speed warning is provided to the pilot for flight in icing conditions and non-icing conditions is the same.

(b) The applicant must provide a means to detect icing conditions for which certification is not requested and show the aircraft's ability to avoid or exit those icing conditions.

(c) The applicant must develop an operating limitation to prohibit intentional flight, including takeoff and landing, into icing conditions for which the aircraft is not certified to operate.

Subpart C—Structures

JS4.2200 Structural Design Envelope

The applicant must determine the structural design envelope, which describes the range and limits of aircraft design and operational parameters for which the applicant will show compliance with the requirements of this subpart. The applicant must account for all aircraft design and operational parameters that affect structural loads, strength, durability, and aeroelasticity, including:

(a) Structural design airspeeds, landing-descent speeds, and any other airspeed limitation at which the applicant must show compliance to the requirements of this subpart. The structural design airspeeds must—

(1) Be sufficiently greater than the minimum safe speed of the aircraft to safeguard against loss of control in turbulent air; and

(2) Provide sufficient margin for the establishment of practical operational limiting airspeeds.

(b) Design maneuvering load factors not less than those, which service history shows, may occur within the structural design envelope.

(c) Inertial properties including weight, center of gravity, and mass moments of inertia, accounting for—

(1) Each critical weight from the aircraft empty weight to the maximum weight; and

(2) The weight and distribution of occupants, payload, and fuel.

(d) Characteristics of aircraft control systems, including range of motion and tolerances for control surfaces, high lift devices, or other moveable surfaces.

(e) Each critical altitude up to the maximum altitude.

(f) Engine-driven lifting-device rotational speed and ranges, and the maximum rearward and sideward flight speeds.

Sec. 23.2205 Interaction of Systems and Structures

[Applicable to JAS4–1]

Structural Loads

Sec. 23.2210 Structural Design Loads

(a) through (b) [Applicable to JAS4–1]

Sec. 23.2215 Flight Load Conditions

(a) through (c) [Applicable to JAS4–1]

Sec. 23.2220 Ground and Water Load Conditions

[Applicable to JAS4–1]

JS4.2225 Component Loading Conditions

The applicant must determine the structural design loads acting on:

(a) Each engine mount and its supporting structure such that both are designed to withstand loads resulting from—

(1) Powerplant operation combined with flight gust and maneuver loads; and

(2) For non-reciprocating powerplants, sudden powerplant stoppage.

(b) Each flight control and high-lift surface, their associated system and supporting structure resulting from—

(1) The inertia of each surface and mass balance attachment;

(2) Flight gusts and maneuvers;

(3) Pilot or automated system inputs;

(4) System induced conditions, including jamming and friction; and

(5) Taxi, takeoff, and landing operations on the applicable surface, including downwind taxi and gusts occurring on the applicable surface.

(c) A pressurized cabin resulting from the pressurization differential—

(1) From zero up to the maximum relief pressure combined with gust and maneuver loads;

(2) From zero up to the maximum relief pressure combined with ground and water loads if the aircraft may land with the cabin pressurized; and

(3) At the maximum relief pressure multiplied by 1.33, omitting all other loads.

(d) Engine-driven lifting-device assemblies, considering loads resulting from flight and ground conditions, as well limit input torque at any lifting-device rotational speed.

Sec. 23.2230 Limit and Ultimate Loads

(a) through (b) [Applicable to JAS4–1]

Structural Performance

Sec. 23.2235 Structural Strength

(a) through (b) [Applicable to JAS4–1]

JS4.2240 Structural Durability

(a) The applicant must develop and implement inspections or other procedures to prevent structural failures due to foreseeable causes of strength degradation, which could result in serious or fatal injuries, or extended periods of operation with reduced safety margins. Each of the inspections or other procedures developed under this section must be included in the Airworthiness Limitations Section of the Instructions for Continued Airworthiness, required by JS4.1529.

(b) For pressurized aircraft:

(1) The aircraft must be capable of continued safe flight and landing following a sudden release of cabin pressure, including sudden releases caused by door and window failures.

(2) For aircraft with maximum operating altitude greater than 41,000 feet, the procedures developed for compliance with paragraph (a) of this section must be capable of detecting damage to the pressurized cabin structure before the damage could result in rapid decompression that would result in serious or fatal injuries.

(c) The aircraft must be designed to minimize hazards to the aircraft due to structural damage caused by high-energy fragments from an uncontained engine or rotating machinery failure.

Sec. 23.2245 Aeroelasticity

(a) through (b) [Applicable to JAS4–1]

Design

Sec. 23.2250 Design and Construction Principles

(a) through (e) [Applicable to JAS4–1]

Sec. 23.2255 Protection of Structure

(a) through (c) [Applicable to JAS4–1]

Sec. 23.2260 Materials and Processes

(a) through (g) [Applicable to JAS4–1]

Sec. 23.2265 Special Factors of Safety

(a) through (c) [Applicable to JAS4–1]

Structural Occupant Protection

Sec. 23.2270 Emergency Conditions

(a) through (e) [Applicable to JAS4–1]

Subpart D—Design and Construction

JS4.2300 Flight-Control Systems

(a) The applicant must design flight-control systems to:

(1) Operate easily, smoothly, and positively enough to allow proper performance of their functions; and

(2) Protect against likely hazards.

(b) The applicant must design trim systems, if installed, to:

(1) Protect against inadvertent, incorrect, or abrupt trim operation; and

(2) Provide a means to indicate—

(i) The direction of trim control movement relative to aircraft motion;

(ii) The trim position with respect to the trim range;

(iii) The neutral position for lateral and directional trim; and

(iv) The range for takeoff for all applicant-requested center of gravity ranges and configurations.

(c) In addition to paragraph (a) and (b) of this section, for indirect flight-control systems:

(1) A means must be provided to indicate to the flightcrew any significant changes or degradation to the handling or operational characteristics of the aircraft during normal and abnormal system operation; and

(2) Features that protect the aircraft against loss of control, structural damage, or exceeding critical limits must be designed such that—

(i) The onset characteristics of each protection feature is smooth and appropriate for the phase of flight and type of maneuver;

(ii) There are no adverse flight characteristics in aircraft response to flight-control inputs, unsteady atmospheric conditions, and other likely conditions, including simultaneous limiting events; and

(iii) The aircraft is capable of continued safe flight and landing following failures not shown to be extremely improbable throughout the approved flight envelope and expected operational conditions.

Sec. 23.2305 Landing Gear Systems

(a) through (c) [Applicable to JAS4–1]

Sec. 23.2310 Buoyancy for Seaplanes and Amphibians

(a) through (b) [Applicable to JAS4–1]

Occupant System Design Protection

Sec. 23.2315 Means of Egress and Emergency Exits

(a) through (b) [Applicable to JAS4–1, including the ditching exclusion in (a)(1)]

JS4.2320 Occupant Physical Environment

(a) The applicant must design the aircraft to:

(1) Allow clear communication between the flightcrew and passengers;

(2) Protect the pilot and flight controls from propellers; and

(3) Protect the occupants from serious injury due to damage to windshields, windows, and canopies.

(b) The aircraft must be capable of continued safe flight and landing after a bird strike with a 2.2-lb (1.0 kg) bird. In addition, the aircraft design must include bird deterrence devices to reduce the potential for bird strikes.

(c) The aircraft must provide each occupant with air at a breathable pressure, free of hazardous concentrations of gases, vapors, and smoke during normal operations and likely failures.

(d) If a pressurization system is installed in the aircraft, it must be designed to protect against:

(1) Decompression to an unsafe level; and

(2) Excessive differential pressure.

(e) If an oxygen system is installed in the aircraft, it must—

(1) Effectively provide oxygen to each user to prevent the effects of hypoxia; and

(2) Be free from hazards in itself, in its method of operation, and its effect upon other components.

Fire and High Energy Protection

§ 23.2325 Fire Protection

(a)(1), (a)(2), (b) through (d), (f)(1), and (g) through (h) [Applicable to JAS4–1]

(a)(3), (e), and (f)(2) [Not applicable to JAS4–1]

JS4.2330 Fire Protection in Fire Zones and Adjacent Areas

(a) Flight controls, engine mounts, and other flight structures within or adjacent to fire zones must be capable of withstanding the effects of a fire.

(b) Engines in a fire zone must remain attached to the aircraft in the event of a fire.

(c) In fire zones, terminals, equipment, and electrical cables used during emergency procedures must perform their intended function in the event of a fire.

JS4.2335 Lightning and Static Electricity Protection

(a) The aircraft must be protected against catastrophic effects from lightning.

(b) The aircraft must be protected against hazardous effects caused by an accumulation of electrostatic charge.

Subpart E—Powerplant

JS4.2400 Powerplant Installation

(a) For the purpose of this subpart, the aircraft powerplant installation must include each component necessary for propulsion, which affects propulsion safety, or provides auxiliary power to the aircraft.

(b) Each aircraft engine and propeller must have a type certificate or be approved under the aircraft type certificate using standards found in subparts H and I.

(c) The applicant must construct and arrange each powerplant installation to account for—

(1) Likely operating conditions, including foreign-object threats;

(2) Sufficient clearance of moving parts to other aircraft parts and their surroundings;

(3) Likely hazards in operation including hazards to ground personnel; and

(4) Vibration and fatigue.

(d) Hazardous accumulations of fluids, vapors, or gases must be isolated from the aircraft and personnel compartments and be safely contained or discharged.

(e) Powerplant components must comply with their component limitations and installation instructions or be shown not to create a hazard.

JS4.2405 Power or Thrust Control Systems

(a) Any power or thrust control system, reverser system, or powerplant control system must be designed so no unsafe condition results during normal operation of the system.

(b) Any single failure or likely combination of failures or malfunctions of a power or thrust control system, reverser system, or powerplant control system must not prevent continued safe flight and landing of the aircraft.

(c) Inadvertent flightcrew operation of a power or thrust control system, reverser system, or powerplant control system must be prevented, or if not prevented, must not prevent continued safe flight and landing of the aircraft.

(d) Unless the failure of an automatic power or thrust control system is extremely remote, the system must—

(1) Provide a means for the flightcrew to verify the system is in an operating condition;

(2) Provide a means for the flightcrew to override the automatic function; and

(3) Prevent inadvertent deactivation of the system.

Sec. 23.2410 Powerplant Installation Hazard Assessment

(a) through (c) [Applicable to JAS4–1]

Sec. 23.2415 Powerplant Ice Protection

(a) through (b) [Applicable to JAS4–1]

JS4.2425 Powerplant Operational Characteristics

(a) Each installed powerplant must operate without any hazardous characteristics during normal and emergency operation within the range of operating limitations for the aircraft and the engine.

(b) The design must provide for the shutdown and restart of the powerplant in flight within an established operational envelope.

JS4.2430 Energy Systems

(a) Each energy system must—

(1) Be designed and arranged to provide independence between multiple energy-storage and supply systems, so that failure of any one component in one system will not result in loss of energy storage or supply of another system;

(2) Be designed to prevent catastrophic events due to lightning strikes, taking into account direct and indirect effects on the aircraft where the exposure to lightning is likely;

(3) Provide the energy necessary to ensure each powerplant and auxiliary power unit functions properly in all likely operating conditions;

(4) Provide the flightcrew with a means to determine the total useable energy available and provide uninterrupted supply of that energy when the system is correctly operated, accounting for likely energy fluctuations;

(5) Provide a means to safely remove or isolate the energy stored in the system from the aircraft; and

(6) Be designed to retain energy under all likely operating conditions and to minimize hazards to occupants following an emergency landing or otherwise survivable impact (crash landing).

(7) [Reserved]

(b) Each energy-storage system must—

(1) Withstand the loads under likely operating conditions without failure; and

(2) Be isolated from personnel compartments and protected from hazards due to unintended temperature influences.

(3) [Reserved]

(4) [Reserved]

(c) Each energy-storage refilling or recharging system must be designed to—

(1) Prevent improper refilling or recharging; and

(2) [Reserved]

(3) Prevent the occurrence of hazard to the aircraft or to persons during refilling or recharging.

§ 23.2435 Powerplant Induction and Exhaust Systems

(a) through (b) [Applicable to JAS4–1]

JS4.2440 Powerplant Fire Protection

There must be means to isolate and mitigate hazards to the aircraft in the event of a powerplant-system fire or overheat in operation.

Subpart F—Equipment

Sec. 23.2500 Airplane Level Systems Requirements

(a) through (b) [Applicable to JAS4–1]

Sec. 23.2505 Function and Installation

[Applicable to JAS4–1]

Sec. 23.2510 Equipment, Systems, and Installations

(a) through (c) [Applicable to JAS4–1]

JS4.2515 Electrical- and Electronic-System Lightning Protection

(a) Each electrical or electronic system that performs a function, the failure of which would prevent the continued safe flight and landing of the aircraft, must be designed and installed such that—

(1) The function at the aircraft level is not adversely affected during and after the time the aircraft is exposed to lightning; and

(2) The system recovers normal operation of that function in a timely manner after the aircraft is exposed to lightning unless the system's recovery conflicts with other operational or functional requirements of the system.

(b) For an aircraft approved for operation under instrument flight rules (IFR), each electrical and electronic system that performs a function, the failure of which would significantly reduce the capability of the aircraft or the ability of the flightcrew to respond to an adverse operating condition, must be designed and installed such that the system recovers normal operation of that function in a timely manner after the aircraft is exposed to lightning.

Sec. 23.2520 High-Intensity Radiated Fields (HIRF) Protection

(a) through (b) [Applicable to JAS4–1]

Sec. 23.2525 System Power Generation, Storage, and Distribution

(a) through (c) [Applicable to JAS4–1]

Sec. 23.2530 External and Cockpit Lighting

(a) through (e) [Applicable to JAS4–1]

Sec. 23.2535 Safety Equipment

[Applicable to JAS4–1]

JS4.2540 Flight in Icing Conditions

An applicant who requests certification for flight in icing conditions must show the following in the icing conditions for which certification is requested:

(a) The ice protection system provides for safe operation; and

(b) The aircraft design must provide protection from slowing to less than the minimum safe speed when the autopilot is operating.

Sec. 23.2545 Pressurized Systems Elements

[Applicable to JAS4–1]

Sec. 23.2550 Equipment Containing High-Energy Rotors

[Applicable to JAS4–1]

Subpart G—Flightcrew Interface and Other Information

JS4.2600 Flightcrew Interface

(a) The pilot compartment, its equipment, and its arrangement to include pilot view, must allow each pilot to perform their duties for all sources of lift and phases of flight and perform any maneuvers within the operating envelope of the aircraft, without excessive concentration, skill, alertness, or fatigue.

(b) The applicant must install flight, navigation, surveillance, and powerplant controls and displays, as needed, so qualified flightcrew can monitor and perform defined tasks associated with the intended functions of systems and equipment, without excessive concentration, skill, alertness, or fatigue. The system and equipment design must minimize flightcrew errors, which could result in additional hazards.

Sec. 23.2605 Installation and Operation

(a) through (c) [Applicable to JAS4–1]

Sec. 23.2610 Instrument Markings, Control Markings, and Placards

(a) through (c) [Applicable to JAS4–1]

JS4.2615 Flight, Navigation, and Powerplant Instruments

(a) Installed systems must provide the flightcrew member who sets or monitors parameters for the flight, navigation, and powerplant, the information necessary to do so during each source of lift and phase of flight. This information must—

(1) Be presented in a manner that the crewmember can monitor the parameter and determine trends, as needed, to operate the aircraft; and

(2) Include limitations, unless the limitations cannot be exceeded in all intended operations.

(b) Indication systems that integrate the display of flight or powerplant parameters to operate the aircraft, or are required by the operating rules of title 14, chapter I, must—

(1) Not inhibit the primary display of flight or powerplant parameters needed by any flightcrew member in any normal mode of operation; and

(2) In combination with other systems, be designed and installed so information essential for continued safe flight and landing will be available to the flightcrew in a timely manner after any single failure or probable combination of failures.

JS4.2620 Aircraft Flight Manual

The applicant must provide an Aircraft Flight Manual that must be delivered with each aircraft.

(a) The Aircraft Flight Manual must contain the following information—

(1) Aircraft operating limitations;

(2) Aircraft operating procedures;

(3) Performance information;

(4) Loading information; and

(5) Other information that is necessary for safe operation because of design, operating, or handling characteristics.

(b) The portions of the Aircraft Flight Manual containing the information specified in paragraphs (a)(1) through (a)(4) of this section must be approved by the FAA in a manner specified by the Administrator.

Subpart H—Electric Engine Requirements

Sec. 33.5 Instruction Manual for Installing and Operating the Engine

(a) through (c) [Applicable to JAS4–1]

Sec. 33.7 Engine Ratings and Operating Limitations

(a) [Applicable to JAS4–1]

(b) through (d) [Not applicable to JAS4–1]

JS4.2702 Engine Ratings and Operating Limits

Ratings and operating limits must be established and included in the type certificate data sheet based on:

(a) Shaft power, torque, rotational speed, and temperature for:

(1) Rated takeoff power;

(2) Rated maximum continuous power; and

(3) Rated maximum temporary power and associated time limit.

(b) Duty Cycle and the rating at that duty cycle. The duty cycle must be declared in the type certificate data sheet.

(c) Cooling fluid grade or specification.

(d) Power-supply requirements.

(e) Any other ratings or limitations that are necessary for the safe operation of the engine.

Sec. 33.8 Selection of Engine Power and Thrust Ratings

(a) through (b) [Applicable to JAS4–1]

Sec. 33.15 Materials

(a) through (b) [Applicable to JAS4–1]

Sec. 33.17 Fire Protection

(a) through (g) [Applicable to JAS4–1]

JS4.2704 Fire Protection

High-voltage electrical wiring interconnect systems must be protected against arc faults. Non-protected electrical wiring interconnects must be analyzed to show that arc faults do not cause a hazardous engine effect.

JS4.2705 Durability

The engine design and construction must minimize the development of an unsafe condition of the engine between maintenance intervals, overhaul periods, or mandatory actions described in the applicable ICA.

Sec. 33.21 Engine Cooling

[Applicable to JAS4–1]

JS4.2706 Engine Cooling

If cooling is required to satisfy the safety analysis as described in JS4.2717, the cooling-system monitoring features and usage must be documented in the engine installation manual.

Sec. 33.23 Mounting Attachment and Structure

(a) through (b) [Applicable to JAS4–1]

Sec. 33.25 Accessory Attachments

[Applicable to JAS4–1]

JS4.2709 Overspeed

(a) A rotor overspeed must not result in a burst, rotor growth, or damage that results in a hazardous engine effect, as defined in JS4.2717(d)(2). Compliance with this paragraph must be shown by test, validated analysis, or a combination of both. Applicable assumed rotor speeds must be declared and justified.

(b) Rotors must possess sufficient strength with a margin to burst above certified operating conditions and above failure conditions leading to rotor overspeed. The margin to burst must be shown by test, validated analysis, or a combination thereof.

(c) The engine must not exceed the rotor-speed operational limitations that could affect rotor structural integrity.

Sec. 33.28 Engine Control Systems

(b)(1)(i), (b)(1)(iii), and (b)(1)(iv) [Applicable to JAS4–1]

(a), (b)(1)(ii), (b)(2) through (m) [Not applicable to JAS4–1]

JS4.2710 Engine Control Systems

(a) Applicability.

These requirements apply to any system or device that is part of the engine type design that controls, limits, monitors, or protects engine operation and is necessary for the continued airworthiness of the engine.

(b) Engine control.

The engine control system must ensure the engine does not experience any unacceptable operating characteristics or exceed its operating limits, including in failure conditions where the fault or failure results in a change from one control mode to another, from one channel to another, or from the primary system to the back-up system, if applicable.

(c) Design assurance.

The software and complex electronic hardware, including programmable logic devices, must be—

(1) Designed and developed using a structured and systematic approach that provides a level of assurance for the logic commensurate with the hazard associated with the failure or malfunction of the systems in which the devices are located; and

(2) Substantiated by a verification methodology acceptable to the Administrator.

(d) Validation.

All functional aspects of the control system must be substantiated by test, analysis, or a combination thereof, to show that the engine control system performs the intended functions throughout the declared operational envelope.

(e) Environmental limits.

Environmental limits that cannot be adequately substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in JS4.2727.

(f) Engine control system failures.

The engine control system must—

(1) Have a maximum rate of Loss of Power Control (LOPC) that is suitable for the intended aircraft application;

(2) When in the full-up configuration, be single fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects; and

(4) Not have any likely failures or malfunctions that lead to local events in the intended aircraft application.

(g) System-safety assessment.

The applicant must perform a system-safety assessment. This assessment must identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into account to assure the assessment of the engine control system safety is valid.

(h) Protection systems.

The engine control devices and systems' design and function, together with engine instruments, operating instructions, and maintenance instructions, must ensure that engine operating limits will not be exceeded in-service.

(i) Aircraft-supplied data.

Any single failure leading to loss, interruption, or corruption of aircraft-supplied data (other than power command signals from the aircraft), or aircraft-supplied data shared between engine systems within a single engine or between fully independent engine systems, must—

(1) Not result in a hazardous engine effect, as defined in JS4.2717(d)(2), for any engine installed on the aircraft; and

(2) Be able to be detected and accommodated by the control system.

(j) Engine control system electrical power.

(1) The engine control system must be designed such that the loss, malfunction, or interruption of the control system electrical power source will not result in a hazardous engine effect, as defined in JS4.2717(d)(2), the unacceptable transmission of erroneous data, or continued engine operation in the absence of the control function. The engine control system must be capable of resuming normal operation when aircraft-supplied power returns to within the declared limits.

(2) The applicant must identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from the aircraft to the engine control system for starting and operating the engine, including transient and steady-state voltage limits, or electrical power supplied from the engine to the aircraft via energy regeneration, and any other characteristics necessary for safe operation of the engine.

Sec. 33.29 Instrument Connection

(a), (e), and (g) [Applicable to JAS4–1]

(b) through (d) and (h) [Not applicable to the JAS4–1]

JS4.2711 Instrument Connection

(a) In addition, as part of the system-safety assessment of JS4.2710(g) and JS4.2733(g), the applicant must assess the possibility and subsequent effect of incorrect fit of instruments, sensors, or connectors. Where practicable, the applicant must take design precautions to prevent incorrect configuration of the system.

(b) The applicant must provide instrumentation enabling the flightcrew to monitor the functioning of the engine cooling system unless evidence shows that:

(1) Other existing instrumentation provides adequate warning of failure or impending failure;

(2) Failure of the cooling system would not lead to hazardous engine effects before detection; or

(3) The probability of failure of the cooling system is extremely remote.

JS4.2712 Stress Analysis

(a) A mechanical, thermal, and electromagnetic stress analysis must show a sufficient design margin to prevent unacceptable operating characteristics and hazardous engine effects.

(b) Maximum stresses in the engine must be determined by test, validated analysis, or a combination thereof, and must be shown not to exceed minimum material properties.

JS4.2713 Critical and Life-Limited Parts

(a) The applicant must show, by a safety analysis or means acceptable to the Administrator, whether rotating or moving components, bearings, shafts, static parts, and non-redundant mount components should be classified, designed, manufactured, and managed throughout their service life as critical or life-limited parts.

(1) *Critical part* means a part that must meet prescribed integrity specifications to avoid its primary failure, which is likely to result in a hazardous engine effect as defined in JS4.2717(d)(2).

(2) *Life-limited parts* may include but are not limited to a rotor and major structural static part, the failure of which can result in a hazardous engine effect due to low-cycle fatigue (LCF) mechanism or any LCF-driven mechanism coupled with creep, or other failure mode. A life limit is an operational limitation that specifies the maximum allowable number of flight cycles that a part can endure before the applicant must remove it from the engine.

(b) In establishing the integrity of each critical part or life-limited part, the applicant must provide to the Administrator the following three plans for approval: an engineering plan, a manufacturing plan, and a service-management plan, as defined in § 33.70.

JS4.2714 Lubrication System

(a) The lubrication system must be designed and constructed to function properly between scheduled maintenance intervals in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) The lubrication system must be designed to prevent contamination of the engine bearings and lubrication system components.

(c) The applicant must demonstrate by test, validated analysis, or a combination thereof, the unique lubrication attributes and functional capability of paragraphs (a) and (b) of this section.

JS4.2715 Power Response

The design and construction of the engine, including its control system, must enable an increase—

(a) From the minimum power setting to the highest rated power without detrimental engine effects;

(b) From the minimum obtainable power while in flight, and while on the ground, to the highest rated power within a time interval determined to be safe for aircraft operation; and

(c) From the minimum torque to the highest rated torque without detrimental engine or aircraft effects, to ensure aircraft structural integrity or aircraft aerodynamic characteristics are not exceeded.

JS4.2716 Continued Rotation

If the design allows any of the engine main rotating systems to continue to rotate after the engine is shut down while in-flight, this continued rotation must not result in hazardous engine effects, as specified in JS4.2717(d)(2).

Sec. 33.75 Safety Analysis

(a)(1) through (a)(2), (d), (e), and (g)(2) [Applicable to JAS4–1]

(a)(3) through (c), (f), (g)(1), and (g)(3) [Not applicable to JAS4–1]

JS4.2717 Safety Analysis

(a) The applicant must comply with § 33.75(a)(2) using the failure definitions in paragraph (d) of this section.

(b) If the failure of such elements is likely to result in hazardous engine effects, then the applicant may show compliance by reliance on the prescribed integrity requirements such as § 33.15, JS4.2709, JS4.2713, or combinations thereof, as applicable. The failure of such elements and associated prescribed integrity requirements must be stated in the safety analysis.

(c) The applicant must comply with § 33.75(d) and (e) using the failure definitions in paragraph (d) of this section.

(d) Unless otherwise approved by the Administrator, the following definitions apply to the engine effects when showing compliance with this condition:

(1) A minor engine effect does not prohibit the engine from meeting its type-design requirements and the intended functions in a manner consistent with § 33.28(b)(1)(i), (b)(1)(iii), and (b)(1)(iv), and the engine complies with the operability requirements such as JS4.2715, JS4.2725, and JS4.2731, as appropriate.

(2) The engine effects in § 33.75(g)(2) are hazardous engine effects with the addition of:

(i) Electrocution of the crew, passengers, operators, maintainers, or others; and

(ii) Blockage of cooling systems that are required for the engine to operate within temperature limits.

(3) Any other engine effect is a major engine effect.

(e) The intended aircraft application must be taken into account to assure that the analysis of the engine system safety is valid.

JS4.2718 Ingestion

(a) Ingestion from likely sources (foreign objects, birds, ice, hail) must not result in hazardous engine effects defined by JS4.2717(d)(2), or unacceptable power loss.

(b) Rain ingestion must not result in an abnormal operation such as shutdown, power loss, erratic operation, or power oscillations throughout the engine operating range.

(c) If the design of the engine relies on features, attachments, or systems that the installer may supply, for the prevention of unacceptable power loss or hazardous engine effects following potential ingestion, then the features, attachments, or systems must be documented in the engine installation manual.

(d) Ingestion sources that are not evaluated must be declared in the engine installation manual.

JS4.2719 Liquid Systems

(a) Each liquid system used for lubrication or cooling of engine components must be designed and constructed to function properly in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) If a liquid system used for lubrication or cooling of engine components is not self-contained, the interfaces to that system must be defined in the engine installation manual.

(c) The applicant must establish by test, validated analysis, or a combination of both, that all static parts subject to significant gas or liquid pressure loads will not:

(1) Exhibit permanent distortion beyond serviceable limits or exhibit leakage that could create a hazardous condition when subjected to normal and maximum working pressure with margin.

(2) Exhibit fracture or burst when subjected to the greater of maximum possible pressures with margin.

(d) Compliance with paragraph (c) of this section must take into account:

(1) The operating temperature of the part;

(2) Any other significant static loads in addition to pressure loads;

(3) Minimum properties representative of both the material and the processes used in the construction of the part; and

(4) Any adverse physical geometry conditions allowed by the type design, such as minimum material and minimum radii.

(e) Approved coolants and lubricants must be listed in the engine installation manual.

JS4.2720 Vibration Demonstration

(a) The engine must be designed and constructed to function throughout its normal operating range of rotor speeds and engine output power, including defined exceedances, without inducing excessive stress in any of the engine parts because of vibration and without imparting excessive vibration forces to the aircraft structure.

(b) Each engine design must undergo a vibration survey to establish that the vibration characteristics of those components that may be subject to induced vibration are acceptable throughout the declared flight envelope and engine operating range for the specific installation configuration. The possible sources of the induced vibration that the survey must assess are mechanical, aerodynamic, acoustical, or electromagnetic. This survey must be shown by test, validated analysis, or a combination thereof.

JS4.2721 Overtorque

When approval is sought for a transient maximum engine overtorque, the applicant must demonstrate by test, validated analysis, or a combination thereof, that the engine can continue operation after operating at the maximum engine overtorque condition without maintenance action. Upon conclusion of overtorque tests conducted to show compliance with this subpart, or any other tests that are conducted in combination with the overtorque test, each engine part or individual groups of components must meet the requirements of JS4.2729.

JS4.2722 Calibration Assurance

Each engine must be subjected to calibration tests to establish its power characteristics and the conditions both before and after the endurance and durability demonstrations specified in JS4.2723 and JS4.2726.

JS4.2723 Endurance Demonstration

(a) The applicant must subject the engine to an endurance demonstration, acceptable to the Administrator, to demonstrate the engine's limit capabilities.

(b) The endurance demonstration must include increases and decreases of the engine's power settings, energy regeneration, and dwellings at the power settings or energy regeneration for durations that produce the extreme physical conditions the engine experiences at rated performance levels, operational limits, and at any other conditions or power settings that are required to verify the limit capabilities of the engine.

JS4.2724 Temperature Limit

The engine design must demonstrate its capability to endure operation at its temperature limits plus an acceptable margin. The applicant must quantify and justify to the Administrator the margin at each rated condition. The demonstration must be repeated for all declared duty cycles and associated ratings, and operating environments, that would impact temperature limits.

JS4.2725 Operation Demonstration

The engine design must demonstrate safe operating characteristics, including but not limited to power cycling, starting, acceleration, and overspeeding throughout its declared flight envelope and operating range. The declared engine operational characteristics must account for installation loads and effects.

JS4.2726 Durability Demonstration

The engine must be subjected to a durability demonstration to show that each part of the engine has been designed and constructed to minimize any unsafe condition of the system between overhaul periods or between engine replacement intervals if the overhaul is not defined. This test must simulate the conditions in which the engine is expected to operate in-service, including typical start-stop cycles.

JS4.2727 System and Component Tests

The applicant must show that systems and components will perform their intended functions in all declared environmental and operating conditions.

JS4.2728 Rotor Locking Demonstration

If shaft rotation is prevented by locking the rotor(s), the engine must demonstrate:

(a) Reliable rotor locking performance;

(b) Reliable unlocking performance; and

(c) That no hazardous engine effects, as specified in JS4.2717(d)(2), will occur.

JS4.2729 Teardown Inspection

The applicant must comply with either paragraph (a) or (b) of this section as follows:

(a) Teardown evaluation.

(1) After the endurance and durability demonstrations have been completed, the engine must be completely disassembled. Each engine component and lubricant must be within service limits and eligible for continued operation in accordance with the information submitted for showing compliance with JS4.1529.

(2) Each engine component having an adjustment setting and a functioning characteristic that can be established independent of installation on or in the engine must retain each setting and functioning characteristic within the established and recorded limits at the beginning of the endurance and durability demonstrations.

(b) Non-Teardown evaluation.

If a teardown is not performed for all engine components, then the life limits for these components and lubricants must be established based on the endurance and durability demonstrations and documented in the Instructions for Continued Airworthiness in accordance with JS4.1529.

JS4.2730 Containment

The engine must provide containment features that protect against likely hazards from rotating components as follows—

(a) The design of the case surrounding rotating components must provide for the containment of the rotating components in the event of failure, unless the applicant shows that the margin to rotor burst precludes the possibility of a rotor burst.

(b) If the margin to rotor burst shows that the case must have containment features in the event of failure, the case must provide for the containment of the failed rotating components. The applicant must define by test, validated analysis, or a combination thereof, and document in the engine installation manual, the energy level, trajectory, and size of fragments released from damage caused by the rotor failure, and that pass forward or aft of the surrounding case.

JS4.2731 Operation With a Variable-Pitch Propeller

The applicant must conduct functional demonstrations including feathering, negative torque, negative thrust, and reverse thrust operations, as applicable, with a representative propeller. These demonstrations may be conducted in a manner acceptable to the Administrator as part of the endurance, durability, and operation demonstrations.

JS4.2732 General Conduct of Tests

(a) Maintenance of the engine may be made during the tests in accordance with the service and maintenance instructions submitted in compliance with JS4.1529.

(b) The applicant must subject the engine or its parts to maintenance and

additional tests that the Administrator finds necessary if—

(1) The frequency of the service is excessive;

(2) The number of stops due to engine malfunction is excessive;

(3) Major repairs are needed; or

(4) Replacement of a part is found necessary during the tests or due to the teardown inspection findings.

(c) Upon completion of all demonstrations and testing specified in these airworthiness criteria, the engine and its components must be—

(1) Within serviceable limits;

(2) Safe for continued operation; and

(3) Capable of operating at declared ratings while remaining within limits.

JS4.2733 Engine Electrical Systems

(a) Applicability.

Any system or device that provides, uses, conditions, or distributes electrical power, and is part of the engine type design, must provide for the continued airworthiness of the engine and maintain electric engine ratings.

(b) Electrical systems.

The electrical system must ensure the safe generation and transmission of power, electrical load shedding, and the engine does not experience any unacceptable operating characteristics or exceed its operating limits.

(c) Electrical-power distribution.

(1) The engine electrical-power distribution system must be designed to provide the safe transfer of electrical energy throughout the electrical power plant. The system must be designed to provide electrical power so that the loss, malfunction, or interruption of the electrical power source will not result in a hazardous engine effect, as defined in JS4.2717(d)(2).

(2) The system must be designed and maintained to withstand normal and abnormal conditions during all ground and flight operations.

(3) The system must provide mechanical or automatic means of isolating a faulted electrical-energy generation or storage device from affecting the safe transmission of electric energy to the electric engine.

(d) Protection systems.

The engine electrical devices and systems must interrupt transmission of electrical power when power conditions exceed design limits.

(1) The engine electrical system must be designed such that the loss, malfunction, or interruption of the electrical power source will not result in a hazardous engine effect, as defined in JS4.2717(d)(2).

(2) The applicant must identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from the aircraft to the engine, or electrical power supplied to the aircraft from the engine from energy regeneration, systems for starting and operating the engine, including transient and steady-state voltage limits, and any other characteristics necessary for safe operation of the engine.

(e) Environmental limits.

Environmental limits that cannot be adequately substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in JS4.2727.

(f) Electrical-system failures.

The engine electrical system must—

(1) Have a maximum rate of Loss of Power Control (LOPC) that is suitable for the intended aircraft application;

(2) When in the full-up configuration, be single fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects; and

(4) Not have any likely failure or malfunction that leads to local events in the intended aircraft application.

(g) System-safety assessment.

The applicant must perform a system-safety assessment. This assessment must identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into account to assure the assessment of the engine system safety is valid.

Subpart I—Propeller Requirements

JS4.2805 Propeller Ratings and Operating Limitations

Propeller ratings and operating limitations must be established by the applicant and approved by the Administrator, including ratings and limitations based on the operating conditions and information specified in this subpart, as applicable, and any other information found necessary for safe operation of the propeller.

Sec. 35.7 Features and Characteristics

(a) through (b) [Applicable to JAS4–1]

JS4.2815 Safety Analysis

(a) The applicant must:

(1) Analyze the propeller system to assess the likely consequences of all failures that can reasonably be expected to occur. This analysis will take into account, if applicable:

(i) The propeller system when installed on the aircraft. When the analysis depends on representative components, assumed interfaces, or assumed installed conditions, the assumptions must be stated in the analysis.

(ii) Consequential secondary failures and dormant failures.

(iii) Multiple failures referred to in paragraph (d) of this section, or that result in the hazardous propeller effects defined in paragraph (g)(1) of this section.

(2) Summarize those failures that could result in major propeller effects or hazardous propeller effects defined in paragraph (g) of this section, and estimate the probability of occurrence of those effects.

(3) Show that hazardous propeller effects are not predicted to occur at a rate in excess of that defined as extremely remote (probability of 10^{-7} or less per propeller flight hour). Because the estimated probability for individual failures may be insufficiently precise to enable the applicant to assess the total rate for hazardous propeller effects, compliance may be shown by demonstrating that the probability of a hazardous propeller effect arising from an individual failure can be predicted to be not greater than 10^{-8} per propeller flight hour. In dealing with probabilities of this low order of magnitude, absolute proof is not possible, and reliance must be placed on engineering judgment and previous experience, combined with sound design and test philosophies.

(b) If significant doubt exists as to the effects of failures or likely combination of failures, the Administrator may require assumptions used in the analysis to be verified by test.

(c) The primary failures of certain single propeller elements (for example, blades) cannot be sensibly estimated in numerical terms. If the failure of such elements is likely to result in hazardous propeller effects, those elements must be identified as propeller critical parts. For propeller critical parts, the applicant must meet the prescribed integrity specifications of JS4.2816. These instances must be stated in the safety analysis.

(d) If reliance is placed on a safety system to prevent a failure progressing to hazardous propeller effects, the possibility of a safety system failure, in combination with a basic propeller failure, must be included in the analysis. Such a safety system may include safety devices, instrumentation, early warning devices, maintenance checks, and other similar equipment or procedures.

(e) If the safety analysis depends on one or more of the following items, those items must be identified in the analysis and appropriately substantiated.

(1) Maintenance actions being carried out at stated intervals. This includes verifying that items that could fail in a latent manner are functioning properly. When necessary to prevent hazardous propeller effects, these maintenance actions and intervals must be published in the Instructions for Continued Airworthiness required under JS4.1529. Additionally, if errors in maintenance of the propeller system could lead to hazardous propeller effects, the appropriate maintenance procedures must be included in the relevant propeller manuals.

(2) Verification of the satisfactory functioning of safety or other devices at pre-flight or other stated periods. The details of this satisfactory functioning must be published in the appropriate manual.

(3) The provision of specific instrumentation not otherwise required. Such instrumentation must be published in the appropriate documentation.

(4) A fatigue assessment.

(f) If applicable, the safety analysis must include, but not be limited to, assessment of indicating equipment, manual and automatic controls, governors and propeller-control systems, synchrophasers, synchronizers, and propeller thrust reversal systems.

(g) Unless otherwise approved by the Administrator and stated in the safety analysis, the following failure definitions apply to compliance with these airworthiness criteria.

(1) The following are regarded as hazardous propeller effects:

(i) The development of excessive drag.

(ii) A significant thrust in the opposite direction to that commanded by the pilot.

(iii) The release of the propeller or any major portion of the propeller.

(iv) A failure that results in excessive unbalance.

(2) The following are regarded as major propeller effects for variable-pitch propellers:

(i) An inability to feather the propeller for feathering propellers.

(ii) An inability to change propeller pitch when commanded.

(iii) A significant uncommanded change in pitch.

(iv) A significant uncontrollable torque or speed fluctuation.

JS4.2816 Propeller Critical Parts

The integrity of each propeller critical part identified by the safety analysis required by JS4.2815 must be established by:

(a) A defined engineering process for ensuring the integrity of the propeller critical part throughout its service life,

(b) A defined manufacturing process that identifies the requirements to consistently produce the propeller critical part as required by the engineering process, and

(c) A defined service-management process that identifies the continued airworthiness requirements of the propeller critical part as required by the engineering process.

Sec. 35.17 Materials and Manufacturing Methods

(a) through (c) [Applicable to JAS4–1]

Sec. 35.19 Durability

[Applicable to JAS4–1]

JS4.2821 Variable- and Reversible-Pitch Propellers

(a) No single failure or malfunction in the propeller system will result in unintended travel of the propeller blades to a position below the in-flight low-pitch position. The extent of any intended travel below the in-flight low-pitch position must be documented by the applicant in the appropriate manuals. Failure of structural elements need not be considered if the occurrence of such a failure is shown to be extremely remote under JS4.2815.

(b) For propellers incorporating a method to select blade pitch below the in-flight low-pitch position, provisions must be made to sense and indicate to the flightcrew that the propeller blades are below that position by an amount defined in the installation instructions. The method for sensing and indicating the propeller blade pitch position must be such that its failure does not affect the control of the propeller.

Sec. 35.22 Feathering Propellers

(a) through (c) [Applicable to JAS4–1]

JS4.2823 Propeller Control System

The requirements of this section apply to any system or component that controls, limits, or monitors propeller functions.

(a) The propeller control system must be designed, constructed and validated to show that:

(1) The propeller control system, operating in normal and alternative operating modes and in transition between operating modes, performs the functions defined by the applicant throughout the declared operating conditions and flight envelope.

(2) The propeller control system functionality is not adversely affected by the declared environmental conditions, including temperature, electromagnetic interference (EMI), high intensity radiated fields (HIRF), and lightning. The environmental limits to which the system has been satisfactorily validated must be documented in the appropriate propeller manuals.

(3) A method is provided to indicate that an operating mode change has occurred if flightcrew action is required. In such an event, operating instructions must be provided in the appropriate manuals.

(b) The propeller control system must be designed and constructed so that, in addition to compliance with JS4.2815:

(1) No single failure results in a hazardous propeller effect; and

(2) No likely failures or malfunctions lead to local events in the intended aircraft installation.

(c) Electronic propeller-control-system embedded software must be designed and implemented by a method approved by the Administrator that is consistent with the criticality of the performed functions and that minimizes the existence of software errors.

(d) The propeller control system must be designed and constructed so that the failure or corruption of aircraft-supplied data does not result in hazardous propeller effects.

(e) The propeller control system must be designed and constructed so that the loss, interruption, or abnormal characteristic of aircraft-supplied electrical power does not result in hazardous propeller effects. The power quality requirements must be described in the appropriate manuals.

Sec. 35.24 Strength

[Applicable to JAS4–1]

Sec. 35.33 General

(a) through (c) [Applicable to JAS4–1]

Sec. 35.34 Inspections, Adjustments, and Repairs

(a) through (b) [Applicable to JAS4–1]

Sec. 35.35 Centrifugal Load Tests

(a) through (c) [Applicable to JAS4–1]

Sec. 35.36 Bird Impact

[Applicable to JAS4–1]

Sec. 35.37 Fatigue Limits and Evaluation

(a) through (c) [Applicable to JAS4–1, except replace the reference to § 35.15 with JS4.2815, and the reference to ''§ 23.2400(c) or § 25.907'' with JS4.2400(c)]

Sec. 35.38 Lightning Strike

[Applicable to JAS4–1]

Sec. 35.39 Endurance Test

(a) through (c) [Applicable to JAS4–1, except replace the reference to ''part 33'' with ''these airworthiness criteria'']

JS4.2840 Functional Test

The variable-pitch propeller system must be subjected to the applicable functional tests of this section. The same propeller system used in the endurance test of JS4.2839 must be used in the functional tests and must be driven by a representative engine on a test stand or on the aircraft. The propeller must complete these tests without evidence of failure or malfunction. This test may be combined with the endurance test for accumulation of cycles.

(a) Governing and reversible-pitch propellers. Thirteen-hundred complete cycles must be made across the range of forward pitch and rotational speed. In addition, 200 complete cycles of control must be made from lowest normal pitch to maximum reverse pitch. During each cycle, the propeller must run for 30 seconds at the maximum power and rotational speed selected by the applicant for maximum reverse pitch.

(b) Feathering propellers. Fifty cycles of feather and unfeather operation must be made.

(c) An analysis based on tests of propellers of similar design may be used in place of the tests of this section.

Sec. 35.41 Overspeed and Overtorque

(a) through (b) [Applicable to JAS4–1]

Sec. 35.42 Components of the Propeller Control System

[Applicable to JAS4–1]

Sec. 35.43 Propeller Hydraulic Components

(a) through (b) [Applicable to JAS4–1]

Appendix A to Part 23—Instructions for Continued Airworthiness

A23.1 through A23.3(g) and A23.4 [Applicable to JAS4–1]
A23.3(h) [Not applicable to JAS4–1]

Appendix A1—Instructions for Continued Airworthiness (Electric Engine)

AJS4.2701 General

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness for the engines as required by JS4.1529.

(b) The Instructions for Continued Airworthiness for the engine must include the Instructions for Continued Airworthiness for all engine parts.

(c) The applicant must submit to the FAA a program to show how the applicant's changes to the Instructions for Continued Airworthiness will be distributed, if applicable.

A33.2 Format

(a) through (b) [Applicable to JAS4–1]

A33.3 Content

(a) and (b) [Applicable to JAS4–1]
(c) [Not applicable to JAS4–1]

A33.4 Airworthiness Limitations Section

(a) [Applicable to JAS4–1]
(b) [Not applicable to JAS4–1]

Appendix A2—Instructions for Continued Airworthiness (Propellers)

AJS4.2801 General

(a) This appendix specifies requirements for the preparation of Instructions for Continued Airworthiness for the propellers as required by JS4.1529.

(b) The Instructions for Continued Airworthiness for the propeller must include the Instructions for Continued Airworthiness for all propeller parts.

(c) The applicant must submit to the FAA a program to show how changes to the Instructions for Continued Airworthiness made by the applicant or by the manufacturers of propeller parts will be distributed, if applicable.

A35.2 Format

(a) through (b) [Applicable to JAS4–1]

A35.3 Content

(a) through (b) [Applicable to JAS4–1]

A35.4 Airworthiness Limitations Section

[Applicable to JAS4–1]

Issued in Washington, DC, on October 31, 2022.

Daniel J. Elgas,

Acting Deputy Director, Policy and Innovation Division, Aircraft Certification Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 464

Unfair or Deceptive Fees Trade Regulation Rule Commission Matter No. R207011

AGENCY: Federal Trade Commission

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (''Commission'') proposes to commence a rulemaking proceeding to address certain deceptive or unfair acts or practices relating to fees. The Commission is soliciting written comment, data, and argument concerning the need for such a rulemaking to prevent persons, entities, and organizations from imposing such fees on consumers.

DATES: Comments must be received on or before January 9, 2023.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Unfair or Deceptive Fees ANPR, R207011'' on your comment and file your comment online at *https://www.regulations.gov.* If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Austin King, Associate General Counsel for Rulemaking, phone: 202–326–3166.

SUPPLEMENTARY INFORMATION:

I. General Background Information

The Federal Trade Commission publishes this advance notice of proposed rulemaking (''ANPR'') pursuant to Section 18 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 57a, the provisions of part 1, subpart B, of the Commission's Rules of Practice, 16 CFR 1.7–1.20, and 5 U.S.C. 553. This authority permits the Commission to promulgate, modify, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

II. Objectives the Commission Seeks To Achieve and Possible Regulatory Alternatives

A. Background

American consumers, workers, and small businesses today are swamped with junk fees that frustrate consumers, erode trust, impair comparison shopping, and facilitate inflation. For this ANPR, the term ''junk fees'' refers to unfair or deceptive fees that are charged for goods or services that have little or no added value to the consumer, including goods or services that consumers would reasonably assume to be included within the overall advertised price; the term also encompasses ''hidden fees,'' which are fees for goods or services that are deceptive or unfair, including because they are disclosed only at a later stage in the consumer's purchasing process or not at all, whether or not the fees are described as corresponding to goods or services that have independent value to the consumer. These terms may overlap—a junk fee can be a hidden fee, but not all junk fees are hidden fees.

Frequently, these unfair or deceptive fees are bundled as ''ancillary products'' in conjunction with loans, auto financing, or some other complicated or

expensive transaction, ending up on the final bill without the consumer's awareness or express and informed consent. Junk fees are especially likely to cause consumer harm when they arise ''without real notice, unconnected to any additional service, in an industry where advertising is essential.'' [1] Junk fees manifest in markets ranging from auto financing to international calling cards and payday loans. A 2019 poll conducted by Consumer Reports found eighty-two percent of those surveyed had spent money on hidden fees in the previous year.[2] The respondents cited telecommunications and live entertainment as sources of hidden fees more than any other industries.[3]

Junk fees not only are widespread but also are growing. In various industries, fees are increasing at higher rates than the base prices of the goods or services to which they are added. For example, in higher education and hospitality,[4] fees are increasing faster than tuition or posted room rates. After first emerging in the late 1990s, hotel ''resort fees'' accounted for $2 billion, or one-sixth of total hotel revenue, by 2015.[5] With rising prices, fees are becoming more prevalent, allowing some businesses to raise effective prices without appearing to do so.[6]

Junk fees impose substantial economic harms on consumers and impede the dissemination of important market information. A Commission analysis of hotel ''resort fees'' that were mandatory and undisclosed in the posted room rates concluded such fees ''artificially increas[e] the search costs and the cognitive costs'' for consumers carrying out the transaction.[7] Junk fees force consumers either to accept a higher actual price for a service or product after beginning the transaction or to spend more time searching for lower actual prices elsewhere. Consumers faced with such fees pay upward of twenty percent more than when the actual price was disclosed upfront.[8] These fee practices can be found throughout the economy but appear to be particularly widespread in markets for travel such as hotels, room-sharing, car rentals, and cruises.

Tickets for live events appear to be another market with widespread junk fees. A Commission workshop focused on the event-tickets market found such fees result in significant market misallocations. Because in a price-obscuring transaction consumers initiate purchasing decisions without knowing the actual cost, ''[t]ickets will not necessarily go to the consumers who value them the most.'' [9] The workshop also highlighted the inability of market participants to correct this course without intervention: After a market leader took unilateral action to phase out hidden fees, the platform ''lost significant market share and abandoned the policy after a year because consumers perceived the platform's advertised prices to be higher than its competitors' displayed prices.'' [10] The president of another significant market actor testified before a Congressional subcommittee that, ''for any single [company] to avoid being disproportionately harmed by using all-in pricing, all members of the live event ticket industry must be legally required to list all prices and fees up-front.'' [11] At the Commission workshop, ''each participating ticket seller that [did] not [ ] provide upfront all-in pricing [ ] *favored* requiring all-in pricing through federal legislation *or rulemaking.*'' [12] A market characterized by both consumers and merchants calling for clearer pricing suggests further Commission action may be justified.

Many measures to tackle junk fees have already been considered or implemented by Congress, federal agencies, states, and peer countries. The Full Fare Advertising Rule issued by the U.S. Department of Transportation states any ''advertising or solicitation'' that ''states a price'' constitutes an ''unfair or deceptive practice . . . unless the price stated is the entire price to be paid.'' [13] The Telemarketing Sales Rule defines as a deceptive act or practice the misrepresentation of, and failure to, ''disclose truthfully, in a clear and conspicuous manner,'' the ''total costs to purchase, receive, or use, . . . any goods or services that are the subject of [a] sales offer.'' [14] The Commission's Funeral Rule provides it is an unfair or deceptive act or practice ''to fail to furnish accurate price information . . . for each of the specific funeral goods and funeral services.'' [15] The Restore Online Shoppers' Confidence Act requires post-transaction third-party sellers online to clearly and conspicuously disclose the cost of a good or service and obtain ''express informed consent for the charge'' from the consumer.[16] Congress enacted the Ocean Shipping Reform Act of 2022, which grants the Federal Maritime Commission greater authority to investigate, make determinations of reasonableness about, and order refunds for, fees charged by common ocean carriers.[17] The Commission's Negative Option Rule, which regulates ''a common form of marketing where the

[1] Nat'l Econ. Council, The Competition Initiative and Hidden Fees 7–15 (2016) (''Competition Initiative''), *https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/hiddenfeesreport_12282016.pdf.*

[2] *See* Consumer Reports, *WTFee Survey: 2018 Nationally Representative Multi-Mode Survey,* at 7 (Jan. 3, 2019), *https://advocacy.consumerreports.org/wp-content/uploads/2019/09/2018-WTFee-Survey-Report-_-Public-Report-1.pdf.*

[3] *See id.* at 4.

[4] *See* Christopher Elliott, *There may be an end in sight for controversial—and often invisible—resort fees,* Wash. Post (June 16, 2016), *https://www.washingtonpost.com/lifestyle/travel/there-may-be-an-end-in-sight-for-controversial--and-often-invisible--resort-fees/2016/06/16/101f6074-317e-11e6-8758-d58e76e11b12_story.html;* Farran Powell & Emma Kerr, *11 Surprising College Fees You May Have to Pay,* U.S. News & World Report (Feb. 12, 2020), *https://www.usnews.com/education/best-colleges/paying-for-college/slideshows/10-surprising-college-fees-you-may-have-to-pay.*

[5] Competition Initiative at 7.

[6] *See, e.g.,* J.J. McOrvey, *Restaurants add new fees to your check to counter inflation,* Wall St. J. (June 2, 2022), *https://www.wsj.com/articles/waiter-theres-a-fee-in-my-soup-11654139870.*

[7] Mary W. Sullivan, Fed. Trade Comm'n, Economic Analysis of Hotel Resort Fees 37 (2017), *https://www.ftc.gov/system/files/documents/reports/economic-analysis-hotel-resort-fees/p115503_hotel_resort_fees_economic_issues_paper.pdf.*

[8] *See* Tom Blake et al., *Price Salience and Product Choice* 16, 40 Marketing Science 619 (2021) (finding that consumers paid 19.5% more when the actual price was not disclosed upfront); Morgan Foy, University of California-Berkley, Haas School of Business, *Buyer Beware: Massive Experiment Shows Why Ticket Sellers Hit You With Last-Second Fees* (Feb. 9, 2021), *https://newsroom.haas.berkeley.edu/research/buyer-beware-massive-experiment-shows-why-ticket-sellers-hit-you-with-hidden-fees-drip-pricing/* (concluding that consumer expenditure on tickets increased 21% when true price not disclosed initially); Danielle Douglas-Gabriel, *Tuition at public colleges has soared in the past decade, but student fees have risen faster,* Wash. Post (June 22, 2016), *https://www.washingtonpost.com/news/grade-point/wp/2016/06/22/tuition-at-public-colleges-has-soared-in-the-last-decade-but-student-fees-have-risen-faster/* (noting that mandatory fees imposed by colleges for campus facilities, library services, and information technology increased the median four-year tuition at public university by twenty percent).

[9] Fed. Trade Comm'n, ''*That's the Ticket*'' *Workshop: Staff Perspective,* 4 (May 2020).

[10] *Id.*

[11] ''*In the Dark: Lack of Transparency in the Live Event Ticketing Industry*'': *Hearing Before the Oversight and Investigations Subcomm. of the H. Comm. on Energy and Commerce,* 116th Cong., 6 (Feb. 26, 2020) (Questions for the Record Responses, Amy Howe, President and Chief Operating Officer, Ticketmaster, North America).

[12] Fed. Trade Comm'n, *Staff Perspective* at 4 (emphases added).

[13] 14 CFR 399.84(a).

[14] 16 CFR 310.3(a)(1)–(2). *See also* 16 CFR 310.4(a)(7) (''In any telemarketing transaction, the seller or telemarketer must obtain the express informed consent of the customer or donor to be charged for the goods or services or charitable contribution and to be charged using the identified account.'').

[15] 16 CFR 453.2(a).

[16] 15 U.S.C. 8402(a)(1)–(2).

[17] *See* Ocean Shipping Reform Act of 2022, Public Law 117–146.

absence of affirmative consumer action constitutes assent to be charged for goods or services,'' also reflects the importance of disclosure and consent in transactions.[18]

The Consumer Financial Protection Bureau (''CFPB'') requested public comment on fees levied on consumer financial products or services.[19] The CFPB expressed concern such fees carry the risk that ''companies are not just shifting costs to consumers'' but also ''taking advantage of a captive relationship with the consumer to drive excess profits.'' [20] Connecticut has passed a law requiring that ''any advertisement for an in-state event [ ] conspicuously disclose the total price for each ticket and what portion . . . represents a service charge.'' [21] New York State recently adopted a similar law.[22] The European Union implemented a directive in 1998 requiring the ''selling price,'' defined as the ''final price of a unit of the product,'' must be ''unambiguous, easily identifiable, and clearly legible.'' [23]

Based on the Commission's substantial work in this area, the Commission's initial view is junk fees appear to be prevalent in many sectors of the American economy. The Commission's actions to address such fees encompass ''mobile cramming'' charges,[24] connection and maintenance fees on prepaid phone cards,[25] account fees,[26] fees that diminish the amount a borrower receives from a loan,[27] miscellaneous fees levied on fuel cards,[28] auto dealer fees,[29] undisclosed fees for funeral services,[30] hotel ''resort'' fees,[31] hidden fees for academic publishing,[32] poorly disclosed ancillary insurance products,[33] membership programs,[34] and discounts for food, travel, long-distance calls, and merchandise.[35]

Certain unlawful fee practices may be covered by existing rules and statutes. The Commission lacks authority, however, to seek redress for consumers or penalties against violators for everyday junk fees that fall outside those specific prohibitions. Indeed, although the Commission has brought many cases that challenge junk fees and hidden fees under Section 5 of the FTC Act, 15 U.S.C. 45, and other statutes, its current remedial authority is limited. The U.S. Supreme Court recently held equitable monetary relief, including consumer redress, is unavailable under Section 13(b) of the FTC Act.[36] Consumer redress under Section 19(b), 15 U.S.C. 57b(b), is limited and

[18] Rule Concerning the Use of Prenotification Negative Option Plans, 84 FR 52393 (Oct. 2, 2019). *See also* 16 CFR 425; Compl. at 20–21, *FTC* v. *Age of Learning, Inc.,* No. 2:20–cv–07996 (C.D. Cal. filed Sept. 1, 2020) (billing consumers without their authorization and making cancellation difficult, resulting in unwanted additional charges); Am. Compl. at 17–20, *FTC* v. *Triangle Media Corp.,* No. 3:18–cv–01388 (S.D. Cal. filed Dec. 11, 2018) (advertising online ''free'' trials of skincare and supplements before enrolling consumers in expensive subscriptions without consent).

[19] Consumer Fin. Prot. Bureau, *Request for Info. Regarding Fees Imposed by Providers of Consumer Fin. Prods. or Servs.,* 71 FR 5801, 5801 (Feb. 2, 2022), *https://www.federalregister.gov/documents/2022/02/02/2022-02071/request-for-information-regarding-fees-imposed-by-providers-of-consumer-financial-products-or.*

[20] *Id.* at 5802.

[21] Conn. Gen. Stat. 53–289a.

[22] *See* Press Release, Gov. Kathy Hochul, *Governor Hochul Signs Legislation Targeting Unfair Ticketing Practices in Live Event Industry* (June 30, 2022), *https://www.governor.ny.gov/news/governor-hochul-signs-legislation-targeting-unfair-ticketing-practices-live-event-industry; see also* Anne Steele, *New York to Ban Hidden Fees in Live-Event Ticketing,* Wall St. J. (June 7, 2022), *https://www.wsj.com/articles/new-york-to-ban-hidden-fees-in-live-event-ticketing-11654606800.*

[23] Council Directive 98/6, art. 2 and 4, 1998 O.J. (L 80) 27 (EC), *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.1998.080.01.0027.01.ENG&toc=OJ%3AL%3A1998%3A080%3ATOC.*

[24] ''Mobile cramming'' fees refer to charges on mobile phones that the consumers did not order or authorize. *See, e.g.,* Stipulated Order at 2, *FTC* v. *Hold Billing Servs., Ltd.,* No. 98–cv–00629 (W.D. Tex. May 4, 2016) (placing charges on consumers' bills without authorization); Compl. at 3, *FTC* v. *T-Mobile USA, Inc.,* No. 14–cv–967 (W.D. Wash. filed July 1, 2014); Compl. at 3, *FTC* v. *AT&T Mobility, LLC,* No. 14–cv–3227 (N.D. Ga. Oct. 8, 2014); *FTC* v. *Inc21.com Corp.,* 745 F. Supp. 2d 975, 982 (N.D. Cal. 2010) (ninety-seven percent of customers had not agreed to purchase the products for which defendant billed them); Stipulated Order at 8, *FTC* v. *Websource Media, LLC,* No. H–06–1980 (S.D. Tex. July 17, 2007) (restraining defendants from charging purchasers without express informed consent); Compl. at 8, *FTC* v. *Nationwide Connections, Inc.,* No. 06–80180 (S.D. Fla. filed Feb. 27, 2006) (charging consumers for long distance calls that were either unauthorized or never made); Stipulated Judgment and Order, *FTC* v. *Mercury Mktg. of Del., Inc.,* No. 00–cv–3281, 2004 WL 2677177, *1 (E.D. Pa. Nov. 22, 2004) (''Defendants [ ] engaged in a telemarketing scheme designed to mislead unsuspecting small businesses into receiving its introductory internet package and without consent of the businesses to bill and collect monthly charges'').

[25] *See, e.g.,* Compl. at 2, *FTC* v. *Millennium Telecard, Inc.,* No. 2:11–cv–02479 (D.N.J. filed May 2, 2011) (''failing to disclose or disclose adequately fees that have the effect of reducing the number of calling minutes available to consumers using Defendants' prepaid calling cards'').

[26] *See, e.g.,* Compl. at 6, *FTC* v. *NetSpend Corp.,* No. 1:16–cv–04203 (N.D. Ga. filed Apr. 11, 2017) (charging account maintenance and inactivity fees on blocked or inaccessible accounts).

[27] *See, e.g.,* Compl. at 13, *FTC* v. *Lead Express, Inc.,* No. 2:20–cv–00840 (D. Nev. filed May 11, 2020) (payday loan company continually withdrew finance charges from consumers' bank accounts without decreasing outstanding principal, resulting in significantly greater costs than represented by Defendants); First Am. Compl. at 3, *FTC* v. *LendingClub Corp.,* No. 3:18–cv–02454 (N.D. Cal. filed Oct. 22, 2018) (promising ''no hidden fees'' but delivering loans significantly lower than expected due to hidden fees deducted from consumers' loan proceeds).

[28] *See, e.g.,* Compl. at 14–16, *FTC* v. *FleetCor Techs., Inc.,* No. 1:19–cv–05727 (N.D. Ga. filed Dec. 10, 2019) (charging hundreds of millions of dollars of unexpected fees after selling charge cards for transportation costs to businesses through promises of savings and no fees).

[29] *See generally* Fed. Trade Comm'n, Notice of Proposed Rulemaking: Motor Vehicle Dealers Trade Regulation Rule, 78 FR 42012, 42023 & n.113 (July 23, 2022) (describing rationale for requiring upfront pricing and exploring Commission's history of work to combat unfair or deceptive fees), *https://www.federalregister.gov/documents/2022/07/13/2022-14214/motor-vehicle-dealers-trade-regulation-rule. See also, e.g.,* Compl. at 3, *FTC* v. *Liberty Chevrolet, Inc.,* No. 20–cv–3945 (S.D.N.Y. filed May 21, 2020) (automobile dealer charged consumers for fees relating to ''certification,'' ''shop,'' and ''reconditioning,'' and levied documentation fees that greatly exceeded statutory limits); Compl. at 7–8, *FTC* v. *N. Am. Auto. Servs., Inc.,* No. 1:22–cv–01690 (N.D. Ill. filed Mar. 31, 2022) (auto dealer charged consumers additional fees falsely claimed to be not optional after failing to disclose such fees in advertising or to consumers who called ahead to confirm low advertised prices).

[30] *See, e.g.,* Compl. at 11–14, *United States* v. *Funeral & Cremation Grp. of N. Am. LLC,* No. 0:22–cv–60779 (S.D. Fla. filed Apr. 22, 2022) (advertising low prices for cremation services and then charging additional undisclosed fees for filing, death certificates, and county permits).

[31] *See, e.g.,* Press Release, Fed. Trade Comm'n, *FTC Warns Hotel Operators that Price Quotes that Exclude 'Resort Fees' and Other Mandatory Surcharges May Be Deceptive* (Nov. 28, 2012), *https://www.ftc.gov/news-events/news/press-releases/2012/11/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other-mandatory-surcharges-may-be.*

[32] *See, e.g.,* Compl. at 12–14, *FTC* v. *OMICS Grp. Inc.,* No. 2:16–cv–02022 (D. Nev. filed Aug. 25, 2016) (academic publisher charged authors hefty publication fees that were previously undisclosed).

[33] One defendant ''induce[d] borrowers unknowingly to purchase optional credit insurance products'' and imposed various obstacles to removing such charges if a consumer asked for the removal of the optional products. Press Release, Fed. Trade Comm'n, *Citigroup Settles FTC Charges Against the Associates Record-Setting $215 Million for Subprime Lending Victims* (Sept. 19, 2002); *see* Compl. at 12–13, *FTC* v. *Citigroup Inc.,* No. 010–cv–0606 (N.D. Ga. filed Mar. 6, 2001). *See also, e.g.,* Compl. at 11, *FTC* v. *Stewart Fin. Co. Holdings, Inc.,* No. 1:03–cv–2648 (N.D. Ga. Filed Sept. 4, 2003) (''in quoting the monthly amount, [Defendant] employees do not even mention the existence of [ ] ancillary products, much less that the consumer has the option to decline them'').

[34] *See, e.g., Stewart Fin. Co. Holdings, Inc.,* No. 1:03–cv–2648; Compl. at 21, *FTC* v. *Simple Health Plans LLC,* No. 0:18–cv–62593 (S.D. Fla. filed Oct. 29, 2018) (advertising comprehensive health insurance plans while actually enrolling consumers in limited benefit plans and medical discount memberships).

[35] *See, e.g.,* Compl. at 5–7, *FTC* v. *Direct Benefits Grp., LLC,* No. 6:11–cv–01186 (M.D. Fla. filed July 18, 2011) (enrolling consumers without consent in a discount program for gas, groceries, restaurants, and more).

[36] *See AMG Cap. Mgmt., LLC* v. *FTC,* 141 S. Ct. 1341, 1352 (2021). *See generally* Fed. Trade Comm'n, Notice of Proposed Rulemaking: Trade Regulation Rule on Impersonation of Government and Businesses, 87 FR 62741 (Oct. 17, 2022) (describing in greater detail the Commission's perspective that promulgating new rules can be worth the cost because of the benefit in providing consumer redress when lawbreakers violate not only Section 5 of the FTC Act but also a specific rule promulgated under Section 18 or treated as such).

challenging to obtain without a rule violation. The Commission believes a rule addressing certain types of unfair or deceptive acts or practices involving junk fees could help reduce the level of unlawful activity in this area, serving as a deterrent against these practices because such a trade regulation rule would allow for civil penalties to be sought against violators.[37] It also would enable the Commission more readily to obtain redress and damages for consumers through Section 19(b) of the FTC Act, 15 U.S.C. 57b(b).

B. Objectives and Regulatory Alternatives

The Commission requests input on whether and how it should use its authority under Section 18 of the FTC Act, 15 U.S.C. 57a, to address deceptive or unfair acts or practices involving junk fees and hidden fees. Specifically, the Commission proposes addressing the following practices, which have been the subject of Commission investigations, enforcement actions, workshops, research, and consumer education, among other activities: (a) misrepresenting or failing to disclose clearly and conspicuously, on any advertisement or in any marketing, the total cost of any good or service for sale;[38] (b) misrepresenting or failing to disclose clearly and conspicuously, on any advertisement or in any marketing, the existence of any fees, interest, charges, or other costs that are not reasonably avoidable for any good or service;[39] (c) misrepresenting or failing to disclose clearly and conspicuously whether fees, interest, charges, products, or services are optional or required;[40] (d) misrepresenting or failing to disclose clearly and conspicuously any material restriction, limitation, or condition concerning any good or service that may result in a mandatory charge in addition to the cost of the good or service or that may diminish the consumer's use of the good or service, including the amount the consumer receives;[41] (e) misrepresenting that a consumer owes payments for any product or service the consumer did not agree to purchase;[42] (f) billing or charging consumers for fees, interest, goods, services, or programs without express and informed consent;[43] (g) billing or charging consumers for fees, interest, goods, services, or programs that have little or no added value to the consumer or that consumers would reasonably assume to be included within the overall advertised price;[44] and (h)

[37] *See* 15 U.S.C. 45(m)(1)(A).

[38] *See, e.g.,* Compl. at 16, *FTC* v. *Funeral & Cremation Grp. of N. Am.* (''Defendants represent[ed] that the prices they quote for cremation packages include all or substantially all the fees and costs that they will charge consumers for their goods and services''); Order at 31, *OMICS Grp.* (Mar. 29, 2019) (permanently enjoining defendant from ''soliciting from a consumer or publishing articles, manuscripts, or other works solicited from a consumer, without disclosing Clearly and Conspicuously [ ] all costs to the consumer''); Stipulation to Enter Order at 5, *Lead Express* (Jan. 27, 2021) (permanently enjoining defendant from misrepresenting ''[a]ny fact material to Consumers concerning any product or service, such as the total costs''); Stipulated Order at 7, *Simple Health Plans* (Feb. 4, 2021) (permanently enjoining defendants from misrepresenting ''[a]ny other fact material to consumers concerning any good or service, such as [ ] the total costs'').

[39] *See, e.g.,* Stipulated Final Order at 10–11, *Millennium Telecard, Inc.* (Jan. 26, 2012) (permanently enjoining defendants from failing to clearly and conspicuously disclose all material limitations including ''[t]he existence and amount of all fees or charges of any type, including, but not limited to, maintenance fees, weekly fees, monthly fees, connection fees, hang-up fees, pagyphone fees, cell phone fees, access number fees, and when and under what circumstances such fees or charges will apply when using [the product]''); Stipulated Order at 5–6, *LendingClub* (July 14, 2021) (permanently enjoining defendant from misrepresenting ''[t]he existence of amount of any fees or charges'' and ''the dollar amount of any prepaid, up-front, or origination fee''); Compl. at 3, *In re Value Rent-A-Car, Inc.,* FTC Dkt. No. C–3420 (Mar. 29, 1993) (Defendants ''stated prices [of] rental vehicles without disclosing: (A) the existence and amount of a mandatory airport surcharge or fee that is imposed on consumers who travel from certain airport locations to one of respondent's rental stations in one of respondent's shuttle vehicles; and (B) the existence and amount of an under 25 years of age driver charge''); Decision and Order at 3–4, *In re Budget Rent-A-Car Systems, Inc.,* FTC Dkt. No. C–4212 (Jan. 2, 2008) (Defendant ordered to ''disclose clearly and conspicuously, at the time of the rental transaction, A. any fuel-related charges, fees, or costs, including any fuel-related charges, fees, or costs which a renter who drives the vehicle less than any specified amount may incur; B. any requirements related to [such charges]; C. the manner, if any, in which a renter can avoid such fuel-related charges, fees, or costs, or related requirements''); Compl. at 3, *FTC* v. *First Am. Payment Sys.,* No. 22–cv–00654 (N.D. Tex. filed July 29, 2022) (alleging that defendants ''failed to disclose, clearly and conspicuously, key terms of their agreements, including the . . . early termination fee'').

[40] *See, e.g.,* Stipulated Order for Permanent Injunction at 9, *N. Am. Auto. Servs.* (Mar. 31, 2022) (permanently restraining defendants from misrepresenting ''whether charges, products, or services are optional or required''); Stipulated Order at 45, *Liberty Chevrolet* (May 22, 2020) (permanently enjoining defendants from misrepresenting ''whether charges, products, or services are optional or required'' and ''whether sales tax charges are in amounts required by state and local law''); Stipulated Final Judgment and Order at 14, *Stewart Fin. Co. Holdings, Inc.* (Nov. 9, 2005) (permanently enjoining defendants from failing to disclose clearly and conspicuously ''all material terms of any Direct Deposit program including but not limited to the costs, requirements, mandatory or optional nature''); Compl. at 19, *Citigroup Inc.* (charging defendants with failing to disclose ''that the purchase of credit insurance was optional and not required to obtain [a] loan'').

[41] *See, e.g.,* Stipulated Final Order at 6–7, *FTC* v. *Alternatel, Inc.,* No. 08–21433–cv (S.D. Fla. Apr. 1, 2009) (permanently restraining defendants from misrepresenting ''all Material Limitations, including . . . That the number of Talk Minutes is only available on a single call, to the extent Talk Minutes are advertised; [ ] The existence and amount of all fees or charges of any type . . . and when and under what circumstances such fees or charges will apply when using a Prepaid Calling Card; [ ] Any limit on the period of time during which [ ] (1) the number of advertised Talk Minutes is available [ ] or (2) the advertised per minute rates are available''); Press Release, Fed. Trade Comm'n, *FTC Order Against Four Car Rental Firms Halts Deceptive Practices* (Aug. 21, 1973) (announcing order that compels defendants to ''clearly disclose in advertising and rental agreements all charges and conditions imposed for rental of cars''); Stipulated Judgment and Order at 2–3, *Mercury Mktg. of Del.* (permanently restraining defendants from failing to clearly disclose material terms of the transactions, including ''the intended method of billing [and] Defendants' policies concerning cancellations or refunds''); Stipulated Order at 5, *NetSpend Corp.* (Apr. 10, 2017) (permanently enjoining defendant from misrepresenting: ''A. Any fact regarding the length of time or conditions necessary before (1) [the product] will be ready to use, or (2) consumers will have access to funds; B. Any fact regarding the length of time or conditions necessary to gain approval to use [the product], including that consumers are guaranteed approval; [and] C. Any fact regarding the protections consumers have in the event of account errors, including the terms under which Defendant will provide provisional credits.'').

[42] *See, e.g., Inc21.com,* 745 F. Supp. 2d at 1001 (order on cross-motions for summary judgment, holding as deceptive the ''representation that consumers owed defendants monthly payments for products that they had never agreed to purchase''); Stipulated Order at 9, *Nationwide Connections* (restraining defendants from misrepresenting that a consumer ''is obligated to pay any Telecommunications Charge that has not been Expressly Authorized''); Stipulated Order at 7–8, *Websource Media* (restraining defendants from misrepresenting that ''an authorized purchaser is obligated to pay any charge for which the authorized purchaser has not given express informed consent'').

[43] *See, e.g.,* Compl. at 63, *FTC* v. *Benefytt Techs.,* No. 22–cv–01794 (M.D. Fla. filed Aug. 8, 2022) (''Defendants have charged consumers for products or services for which consumers have not provided express, informed consent.''); Stipulated Order at 10, *Hold Billing Servs.* (''Defendants shall not, directly or through an intermediary, place charges for any products or services on any bill to consumers unless the consumer has expressly authorized such charge''); Compl. at 52, *FleetCor* (''Defendants have billed consumers for fees, interest, and finance charges, and programs for which consumers have not provided express, informed consent''); Final Judgment and Order at 4–6, *Direct Benefits Grp.* (Aug. 12, 2013) (permanently enjoining defendants from ''[c]harging or attempting to charge any consumer unless the consumer has provided express informed consent to be charged'').

[44] *See, e.g.,* Prepared Statement of the Fed. Trade Comm'n, ''Prepaid Calling Cards'' Before Subcommittee on Commerce, Trade and Consumer Protection of the House Committee on Energy and Commerce, 110th Congr., (Sept. 16, 2008), *https://www.ftc.gov/sites/default/files/documents/public_statements/prepared-statement-federal-trade-commission-prepaid-calling-cards/p074406prepaidcc_0.pdf* (describing enforcement actions against prepaid calling card distributors for failing to disclose prepaid calling cards' connection and maintenance fees); Warning Ltr., Fed. Trade Comm'n (Nov. 28, 2012), *https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other-mandatory-surcharges-may-be/121128hoteloperatorsletter.pdf* (announcing investigations into whether certain hotel operators

misrepresenting or failing to disclose clearly and conspicuously on an advertisement or in marketing the nature or purpose of any fees, interest, charges, or other costs.[45]

The Commission seeks comment on, among other things, the prevalence of each of the above practices, the costs and benefits of a rule that would require upfront inclusion of any mandatory fees whenever consumers are quoted a price for a good or service and other potential rule requirements to curtail unfair or deceptive fees, and alternative or additional action to such a rulemaking, such as the publication of additional consumer and business education materials and hosting of public workshops. In their replies, commenters should provide any available evidence and data that support their position, such as empirical data, consumer-perception studies, and consumer complaints.

C. Public Comments on a Related Petition and Request for Comment

On December 27, 2021, the Federal Trade Commission published a petition for rulemaking submitted by the Institute for Policy Integrity (''Policy Integrity'').[46] The petition asks the Commission to promulgate rules to address the practice it identifies as ''drip pricing.'' Drip pricing is defined by the petition as ''the practice of advertising only part of a product's price upfront and revealing additional charges later as consumers go through the buying process.''[47] The petition itself addressed only some of the issues explored in this ANPR. The comment period for the petition closed on January 26, 2022.[48] The petition received 25 comments from individual consumers, trade associations, and industry leaders.[49] Of these comments received, only one comment, by a ticket-broker corporation, urged caution as to drip-pricing rulemaking, while the rest supported granting the petition.

The petition argues that, by initially withholding crucial pricing information, sellers manipulate market pressures to consumers' detriment.[50] Consumers then cannot effectively comparison-shop to find the best value or must devote an undue amount of time to making cost-appropriate decisions. According to the National Economic Council, these skewed market dynamics may cause consumers to ''systematically . . . pay more for goods and services.''[51] Policy Integrity recommends the Commission require sellers to provide prominent indication of the entire price imposed by a seller, including all mandatory fees and service charges (but excluding optional add-on features and taxes imposed by government).[52] The petition identifies Commission authority to impose such a rule as stemming from the Commission's Section 5 mandate to protect consumers and competition by preventing unfair, deceptive, and anticompetitive practices.[53] By misrepresenting a product's true cost, drip pricing, according to the petition, deceives consumers acting reasonably under the circumstances, unfairly imposes injury not reasonably avoidable and not outweighed by countervailing benefits, and disadvantages parties who disclose entire prices upfront, which makes it an unfair method of competition.[54]

Policy Integrity notes the Commission's long record of related enforcement actions, such as: preventing door-to-door encyclopedia salespersons from initially posing as advertising researchers;[55] enforcing the Telemarketing Sales Rule against parties mischaracterizing the commercial nature of their calls;[56] prohibiting a rental car company from using the misleading name ''Dollar-a-Day'' to lure customers;[57] and disciplining a debt-negotiation company for its false pledge to settle all client accounts for 40–60% of the debt owed.[58] Specific to drip pricing, Policy Integrity points to Commission actions including: the convening of a 2012 conference[59] and the 2019 workshop on tickets, a 2012 warning to hotel operators of potential Section 5 violations through their reservation websites,[60] and a broader declaration by then-Chair Jon Leibowitz that drip-pricing practices do ''a huge disservice to American consumers.''[61]

The petition identifies the Department of Transportation's 2011 Full Fare Advertising Rule as a useful regulatory precedent for requiring clear indication of ''the entire price to be paid.''[62] It also highlights that the District of Columbia[63] and Nebraska[64] have filed parallel suits against Marriott and Hilton, respectively, while the City and County of San Francisco filed suits against the operators of online travel sites JustFly and FlightHub.[65] Congressional leaders recently called on the Commission to act against deceptive and unfair practices related to hidden fees in the event-ticket-sales industry.[66]

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misrepresented hotel room prices to consumers by failing to disclose mandatory ''resort'' fees); Compl. at 13, *Funeral & Cremation Grp. of N. Am.* (''Defendants charge consumers additional fees Defendants have not previously disclosed for goods and services such as death certificates, death certificate filing fees, county permits, heavy duty vinyl pouches, or alternative containers.''); Compl. at 7, *Liberty Chevrolet,* (falsely telling consumers they must pay ''dealer prep,'' ''air money,'' ''reconditioning,'' and ''documentation'' fees as part of auto sale).

[45] *See, e.g.,* Compl. at 2–4, *In re Value Rent-A-Car* (failing to disclose airport surcharge fees); Compl. at 13, *Funeral & Cremation Grp. of N. Am.* (failing to disclose funeral-related fees for filing, permits, death certificates); 16 CFR 453.2(a) (requiring funeral providers to ''furnish accurate price information disclosing the cost to the purchaser of each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies'').

[46] *See* Inst. for Policy Integrity, Pet. for Rulemaking Concerning Drip Pricing 1 (2021), *https://policyintegrity.org/documents/Petition_for_Rulemaking_Concerning_Drip_Pricing.pdf* (''Policy Integrity Pet.'').

[47] Pet. at 1 (quoting Mary Sullivan, *supra* n.7).

[48] *See* Fed. Trade Comm'n, Notice of Pet., 87 FR 73207 (Dec. 27, 2021), *https://www.federalregister.gov/documents/2021/12/27/2021-27435/petition-for-rulemaking-by-institute-for-policy-integrity.*

[49] *See* Policy Integrity Pet. Rulemaking Dkt. (''Browse All Comments'' tab), *https://www.regulations.gov/docket/FTC-2021-0074/comments.*

[50] Pet. at 1.

[51] Competition Initiative at 9.

[52] *See* Pet. at 2.

[53] *See* 15 U.S.C. 45(a)(2) (''The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations . . . from using unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce'').

[54] *See* Pet. at 3, 10, 16.

[55] *See Encyc. Britannica, Inc.,* 87 F.T.C. 421, 495–97, 531 (1976), *aff'd,* 605 F.2d 964 (7th Cir. 1979), *as modified,* 100 F.T.C. 500 (1982).

[56] *See* Fed. Trade Comm'n, FTC Enforcement Policy Statement on Deceptively Formatted Advertisements 8 & n.29 (2015) (collecting such cases), *https://www.ftc.gov/system/files/documents/public_statements/896923/151222deceptive enforcement.pdf.*

[57] *See Resort Car Rental Sys., Inc.* v. *FTC,* 518 F.2d 962, 964 (9th Cir. 1975).

[58] *See FTC* v. *Connelly,* No. 06–cv–701, 2006 WL 6267337, at *11–12 (C.D. Cal. Dec. 20, 2006).

[59] *See* Fed. Trade Comm'n, The Economics of Drip Pricing (May 21, 2012), *https://www.ftc.gov/news-events/events-calendar/2012/05/economics-drip-pricing.*

[60] *See* Warning Ltr., *supra* n.44.

[61] Press Release, Fed. Trade Comm'n, FTC Warns Hotel Operators that Price Quotes that Exclude 'Resort Fees' and Other Mandatory Surcharges May Be Deceptive (Nov. 28, 2012), *https://www.ftc.gov/news-events/news/press-releases/2012/11/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other-mandatory-surcharges-may-be.*

[62] 14 CFR 399.84(a).

[63] *See* Compl. at 1, *D.C.* v. *Marriott International, Inc.* (D.C. Super. Ct. July 9, 2019), *https://oag.dc.gov/sites/default/files/2019-07/Marriott-Complaint.pdf.*

[64] See Am. Compl. at 4, *Nebraska* v. *Hilton Dopco., Inc.,* No. CI 19–2366 (Lancaster Cty. Neb., July 24, 2019), *https://hotellaw.jmbm.com/files/2019/07/Nebraska-v-Hilton-resort-fee-complaint-7-24-19.pdf.*

[65] *See* Press Release, City Att'y of S.F., Herrera Sues JustFly and FlightHub Over Hidden Fees and Other Predatory Scams (Sept. 19, 2019), *https://www.sfcityattorney.org/2019/09/19/herrera-sues-justfly-and-flighthub-over-hidden-fees-and-other-predatory-scams/.*

[66] Ltr. to Chairman Simons from Congressmen Pallone and Pascrell (June 20, 2018), *https://*

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Policy Integrity argues such piecemeal policies limited to particular sectors or regions cannot substitute for comprehensive nationwide regulation.[67] Policy Integrity's petition outlines the legal bases for determining an act or practice is deceptive, unfair, or an unfair method of competition, concluding that drip pricing falls under each of these categories.[68]

The petition also explores at length what benefit-cost analyses may be required to promulgate the rule the petition proposes.[69] While the Commission, as an independent regulatory agency, is not subject to Executive Order 12866, it faces a similar obligation to assess the economic effect of its rulemaking under Section 22 of the FTC Act, 15 U.S.C. 57b–3. Policy Integrity cites as primary benefits of drip-pricing regulation the corresponding decrease in consumer search time and a decrease in overpriced transactions.[70] Policy Integrity considers the primary cost of drip-pricing regulation to come through private-sector compliance in the form of substantial modification of solicitation schemes and online ticket portals, with possible secondary costs from administrative and enforcement efforts.[71] Policy Integrity stresses that, because redistributed costs between buyers and sellers are ''monetary payments from one group to another, that do not affect total resources available to society,'' these are neither ''costs'' nor ''benefits'' in the strict economic sense.[72]

Policy Integrity proposes the following rulemaking language:

> It is an unfair or deceptive act or practice and unfair method of competition to advertise or solicit the sale of a product or service without prominently disclosing the entire price to be paid by the customer inclusive of all unavoidable fees and service charges (excluding government taxes). Although unavoidable fees and charges included within the single total price disclosed may also be stated separately from the total price, such statement of fees and charges may not be false or misleading and may not be presented more prominently or in the same or larger size as the total price. In addition, all other fees or service charges that might foreseeably be assessed in connection with the sale of the product or service, including additional fees for optional services, must be conspicuously disclosed in the advertisement or solicitation.[73]

Comments to Policy Integrity's petition largely supported its effort, with 24 in support and one urging caution.[74] Policy Integrity itself comments on its own petition, focusing on findings from two recent studies: ''These studies find that, absent regulation, online platforms have strong incentives to hide fees and that drip pricing lowers consumers' perceived price fairness.'' [75]

The first study, ''Deceptive Features on Platforms,'' analyzed ''incentives of online platforms to hide additional'' mandatory fees, such as service charges, from the market.[76] Platforms have the capability either to hide the mandatory fees or to disclose them transparently to consumers upfront, and the study found, even though the platforms will not themselves receive the hidden fees or commissions, a platform still has ''stronger incentives'' to hide the fees than sellers do themselves.[77] This is because platforms that hide these additional fees for all sellers make ''overall product prices seem lower'' and ''are more likely to attract more buyers.'' [78] Even as sophisticated buyers might avoid these platforms, unsuspecting buyers will still use such platform and raise their revenues. There is a ''spillover effect on obscuring platform fees: a platform can shroud seller fees to increase the number of buyers, and that increase in turn incentives platforms to hide their own fees.'' [79] The study concludes that policies such as the Policy Integrity petition's upfront pricing model is ''likely, in aggregate, to increase consumer surplus.'' [80]

The second study, ''Many a Little Makes a Mickle: Why Do Consumers Negatively React to Sequential Price Disclosure?,'' used ''eye-tracking data'' to analyze consumer reaction to the ''timing of price disclosures and the number of sequentially presented surcharges.'' [81] The study found sequential final price disclosures both increased ''a consumer's perceived price complexity'' and ''decreased their perceived transparency of a firm's pricing.'' [82] Consumers, as a result, find sequential pricing is less fair but upfront disclosure of the final price is ''more transparent'' and fair.[83] The study concluded drip pricing injures consumers because it increases ''the amount of effort they must exert to understand the total price and to compare prices between products and sellers.'' [84]

The Commission received three comments from industry participants and four from consumer organizations on Policy Integrity's petition. Notably, the National Association of Ticket Brokers urges caution in its comment.[85] As a general matter, ''NATB supports fair and transparent live event ticket sales and has supported a requirement of 'all-in pricing' which would be the outcome of a prohibition on drip pricing.'' [86] NATB warns, however, as it did in the 2019 Commission workshop on online ticket sales, a rule will be effective only if (1) it were required of every ticket seller and (2) there were ''rigorous and expeditious enforcement.'' [87] The NATB comment also mentions a variety of other issues facing the ticket industry, including transferability, ticket holdbacks when tickets go on sale, cancellation of season tickets, locking tickets in a single platform, deceptive websites, non-transparent fees, bots, and others. The comment letter agrees reform in the ticket market is needed, suggests the Commission take action under its existing authority, and states new federal legislation is needed to provide broader authority to the Commission.[88]

On the other hand, the National Consumers League ''strongly supports the petition'' to promulgate rules governing drip pricing.[89] NCL notes its history of fighting drip pricing in live event ticketing, hotel accommodations, and airline tickets, having joined the Sports Fans Coalition to ask the Commission to prohibit drip pricing for live event ticketing in 2018.[90] The comment argues that, following the Live Nation–Ticketmaster merger in 2010, the ''unfair and deceptive practices have gone largely unchecked.'' [91] The

pascrell.house.gov/sites/pascrell.house.gov/files/ftc%20letter%20on%20ticket%20sales_072018.pdf.

[67] *See* Pet. at 7.

[68] *See id.* at 10–24.

[69] *See generally id.* at 25–31.

[70] *See id.* at 28–29.

[71] *See id.* at 27–28.

[72] *See id.* at 30–31.

[73] *Id.* at 5.

[74] *See* Policy Integrity Pet. Rulemaking Dkt. (''Browse All Comments'' tab), *https://www.regulations.gov/docket/FTC-2021-0074/comments.*

[75] Cmt. of Policy Integrity on Pet. at 1 (Jan. 25, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0003.*

[76] *Id.*

[77] *Id.* at 2 (quoting study).

[78] *Id.*

[79] *Id.*

[80] *Id.*

[81] *Id.* at 3.

[82] *Id.*

[83] *Id.*

[84] *Id.*

[85] *See* Cmt. of Nat'l Ass'n of Ticket Brokers on Pet. 1 (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0024.*

[86] *Id.*

[87] *Id.*

[88] *See id.*

[89] Cmt. of Nat'l Consumers League on Pet. 1 (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0019.*

[90] *See id.*

[91] *Id.* at 2.

comment notes that, while drip pricing is particularly prevalent in the live-event, hotel, and airline industries, other industries use drip pricing as well.[92]

The U.S. Public Interest Research Group and Education Fund notes in its comment ''[t]here are no circumstances where a reasonable person could think it's OK to reveal only part of the cost of a product or service'' and ''[t]ransparency is a moral obligation.'' [93] The comment advocates that promulgation of a rule would ensure other industries would be required to disclose all mandatory fees, like the ''full-fare advertising rule.'' [94] The comment also notes the CFPB is exploring a similar effort to reduce junk fees charged by banks and other financial institutions. The comment points out a new rule would not control how much businesses charge for their goods and services; it would instead require them to disclose all those charges to the consumer at the outset of a purchase.[95]

Travelers United notes it has been very active on the issue of drip pricing for over a decade.[96] The comment emphasizes the Commission has extensively studied the issue of drip pricing and published reports in the past decade. The comment notes ''[e]very action has determined that drip pricing is harmful to consumers, and it undermines market competition.'' [97] The comment also discusses Travelers United's extensive work with the Department of Transportation to create the Full Fare Advertising Rule, which requires airlines to disclose all mandatory taxes and fees in its advertising of ticket prices.[98] After its passage, several airlines unsuccessfully sued the DOT to overturn the rule. The comment advocates that the Commission must work to close this loophole that ''allows hotel drip pricing even when accommodations are sold together with regulated airfares.'' [99] Travelers United also discussed its advocacy work with NAAG which resulted in lawsuits by state attorneys general against Marriot and Hilton. The comment notes ''American consumers are facing an assault of deceptive fees'' and ''[w]orse yet, the growth of drip pricing harms not only consumers but also sellers who attempt to be honest and decline participation in the practice.'' [100]

Consumer Reports likewise has opposed drip pricing for years, describing the practice as ''a particularly pernicious form of 'bait and switch,' made even more potent with the growing use of the internet for consumer transactions.'' [101] Consumer Reports states the Department of Transportation's Full Fare Advertising Rule is a ready model and a good start, ''although Consumer Reports to improve transparency for non-mandatory but common ancillary fees, such as for seat assignments and baggage.'' [102]

Two online ticket sellers, TickPick [103] and TicketNetwork,[104] voice their strong support for the petition and note their websites feature straightforward models that do not hide fees from consumers. Both companies stress that, without Commission intervention, companies that adopt more-straightforward pricing models will continue to play on an uneven playing field. TicketNetwork notes, according to a survey it conducted, ''most major ticket marketplaces allow for this all-in model after comments from FTC Commissioner Rebecca Kelly Slaughter . . . indicated support for a move away from drip pricing.'' [105] TickPick states it was the first in the industry to offer a ''no-fee'' marketplace and it has saved consumers more than $50 million by not charging service fees.[106] TickPick expresses that the ''base price of a ticket'' and the ''service'' or ''convenience fees'' are often ''contrived by primary and/or secondary ticket sellers to increase consumer demand.'' [107] TickPick supports elimination of drip pricing but recommends the proposed language from the petition be modified to ''ensure companies are fully apprised of what is required for compliance.'' [108] Specifically, the comment suggests two key principles to guide the Commission: (1) the all-in prices should be ''prominently disclosed to the consumer on the ticketing platform, as well as in any advertising'' before any component prices are broken out; and (2) ''all-in'' prices should not include taxes or any optional fees that the customer may or may not decide to purchase, and the terms ''optional fees,'' ''service charges,'' and ''mandatory'' or ''unavoidable fees'' must be carefully defined.[109]

Seventeen individual consumers offer comment in support of Policy Integrity's petition. The consumers' comments evince a general sense of frustration with drip pricing, and several directly plea for the Commission to act. As Colleen Welch puts it, ''There are few things more irritating when shopping than to have the final price be way more than expected due to mandatory fees.'' [110] An anonymous commenter underscores the hardship these fees cause: ''As someone making minimum wage, it's impossible to budget and attend these events when prices sky rocket with hidden fees.'' [111] Many comments reflect that consumers are generally upset when they feel as if the price is a surprise. Amy Lebetsamer states, ''My purchase should be straight-forward and I should know exactly what I'm paying for.'' [112] One commenter describes receiving an unwelcome surprise when a Boston hotel slid a piece of paper under her door the night before check-out with a $50 ''resort fee'' that had not been previously disclosed.[113] Another commenter, Daniel Melling, expresses his dismay after seeing L.A. Lakers basketball tickets advertised as $42.00, he clicked to the checkout page and saw service fees totaling $13.95.[114] Mr. Melling states, ''Drip pricing wastes time as I have to take extra steps in online purchases to reach the checkout window before the vendor provides me with a final price.'' [115] Many consumers note the lack of transparency among

[92] *See id.* at 3.

[93] Cmt. of U.S. Public Interest Research Grp. Educ. Fund on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0022.*

[94] *Id.*

[95] *See id.*

[96] *See* Cmt. of Travelers United, Inc. on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0021.*

[97] *Id.* at 2.

[98] *See id.* at 2–3.

[99] *Id.* at 3.

[100] *Id.* at 4.

[101] Cmt. of Consumer Reports on Pet. 1 (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0023.*

[102] *Id.* at 2.

[103] *See* Cmt. of TickPick, LLC on Pet. 1 (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0026.*

[104] *See* Cmt. of TicketNetwork on Pet. 1 (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0027.*

[105] *Id.*

[106] Cmt. of TickPick at 1.

[107] *Id.* at 1–2.

[108] *Id.* at 2.

[109] *Id.*

[110] Cmt. of Colleen Welch on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0010.*

[111] Cmt. of Anonymous on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0016.*

[112] Cmt. of Amy Lebetsamer on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0008.*

[113] *See* Cmt. of Anonymous on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0025.*

[114] *See* Cmt. of Daniel Melling on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0011* (attaching screenshots).

[115] *Id. See also id.* (''With more consumers relying on e-commerce and online purchases of goods and services, now is an important time for FTC to initiate this rulemaking process and provide consumers with the fair and transparent pricing they deserve.'').

ticket sellers is unfair because consumers are at an information disadvantage. One commenter, Janice Hough, is a travel agent who spent ''HOURS'' trying to figure out the total price of a trip because of the various additional fees.[116] Commenter Scott Ogawa notes that, if the Commission promulgates a rule banning drip pricing, the rule may become ''self-enforcing'' because consumers will be irritated by violations of new norms and look to alternative choices.[117] Other individual consumers' comments express their dismay at the practice of drip pricing and urge the Commission to take action to prevent it.[118]

The comments received by the CFPB in response to its request for comments on fees imposed by providers of consumer financial products and services express the same frustrations and concerns, albeit in greater volume: The CFPB received 50,007 comments, which suggests drip pricing may be ripe for action. Many commenters submitted comments relaying their frustration with encountering hidden fees when seeking to purchase live event tickets, hotel, and travel accommodations. A graduate student, Ray Stevens, related his frustrations with travel-related companies that hide additional fees, writing, ''I don't object to paying fair prices for goods and services, but in order to be responsible for myself and my family, I want to know what I will be charged up front when I do business with, and feel that what I am paying is the actual price of the purchase . . . .''[119] Tens of thousands of other comments offer a similar perspective. This parallel inquiry at the CFPB further reinforces the importance of the rulemaking proceeding initiated by the Commission with this ANPR. The CFPB does not have authority to address drip pricing beyond its jurisdiction of consumer financial products and services, but the Commission can go further and address unfair or deceptive fee practices in interstate commerce.

The Commission finds Policy Integrity's petition and the public comments submitted in response to it persuasive. Accordingly, the Commission, through its publication of this ANPR and a corresponding Order, grants Policy Integrity's petition for rulemaking.

D. The Rulemaking Process

The Commission seeks the broadest participation by the affected interests in the rulemaking. The Commission encourages all interested parties to submit written comments. The Commission also expects affected interests to assist the Commission in analyzing various options and in drafting any proposed rule. After reviewing comments submitted in response to this ANPR, the Commission may proceed with further steps outlined in Section 18 of the FTC Act and Part 1, Subpart B, of the Commission's Rules of Practice.

III. Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant to the Commission's consideration of the proposed rulemaking. In addition to the issues raised above, the Commission solicits public comment on the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. For all questions, the Commission seeks commenters' views, arguments, experiences, and the qualitative and quantitative data that support or inform their answers.[120] The Commission requests that factual data upon which the comments are based be submitted with the comments.

Questions

1. How widespread is the practice of misrepresenting or failing to disclose on any advertisement or marketing the total cost for a good or service for sale? To what extent are total costs misrepresented during the advertising or marketing of a good or service? Provide all available data and evidence that supports your answer, such as empirical data, consumer-perception studies, and consumer complaints.

2. How widespread is the practice of misrepresenting or failing to disclose on any advertisement or marketing the existence of any fees, interest, charges, or costs that cannot be reasonably avoided or are mandatory? To what extent are those mandatory fees misrepresented during the advertising or marketing of a good or service?

3. How widespread is the practice of misrepresenting or failing to disclose clearly and conspicuously on an advertisement or in marketing whether fees, interest, charges, products, or services are optional or required? To what extent is the optional or required nature of a fee, interest, charge, product, or service misrepresented during the advertising or marketing of a good or service? To what extent are such optional or required fees, interest, charges, products, or services related to the product or service that is the primary purpose of the transaction?

4. How widespread is the practice of misrepresenting or failing to disclose clearly and conspicuously on an advertisement or in marketing any material restriction, limitation, or condition that may result in a mandatory charge in addition to the cost of the good or service or that may diminish the consumer's use of the good or service, including the amount the consumer receives? To what extent are those material restrictions, limitations, or conditions misrepresented during the advertising or marketing of the good or service?

5. How widespread is the practice of misrepresenting that a consumer owes payment for any product or service the consumer did not agree to purchase? To what extent are such claims made expressly in written text or oral communications and to what extent are they made indirectly?

6. How widespread is the practice of billing or charging consumers for fees, interest, goods, services, or programs without the consumer's express and informed agreement? To what extent are third parties engaging in such practices, including add-ons and upsells to which consumers did not agree?

7. How widespread is the practice of charging consumers for fees, interest, goods, services, or programs that have little or no added value to the consumer? Are there specific industries or market sectors in which this practice occurs more often? How, if at all, should the value of fees be defined or determined?

8. How widespread is the practice of charging fees for goods or services that

[116] Cmt. of Janice Hough on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0012.*

[117] Cmt. of Scott Ogawa on Pet. (Jan. 26, 2022), *https://www.regulations.gov/comment/FTC-2021-0074-0020.*

[118] *See generally* Policy Integrity Pet. Rulemaking Dkt. (''Browse All Comments'' tab), *https://www.regulations.gov/docket/FTC-2021-0074/comments.*

[119] Cmt. of Ray Stevens on CFPB Request for Info. Regarding Fees Imposed by Providers of Consumer Fin. Prods. or Servs. (Feb. 17, 2022), *https://www.regulations.gov/comment/CFPB-2022-0003-0790.*

[120] *See* Fed. Trade Comm'n, Public Participation in the Rulemaking Process, *https://www.ftc.gov/enforcement/rulemaking/public-participation-rulemaking-process.* Commenters who filed comments on other rulemaking dockets that address related issues, such as the notice of proposed rulemaking concerning a Motor Vehicle Dealers Trade Regulation Rule or the Regulatory Review of the Funeral Rule, are welcome to re-file those comments, or update them as commenters think appropriate, on this rulemaking docket. The Commission's analysis of public comments in considering whether to proceed to a notice of proposed rulemaking on Unfair or Deceptive Fees will be based only on comments filed on this docket in response to this ANPR and not on any other rulemaking dockets.

consumers would reasonably assume to be included within the overall advertised price? Are there specific industries or market sectors in which this practice occurs more often? Please share any evidence of consumer perception, such as copy tests or surveys.

9. How widespread is the practice of misrepresenting or failing to disclose clearly and conspicuously on an advertisement or in marketing the nature or purpose of any fee, interest, charge, or other costs? To what extent are such claims made expressly and to what extent are they made indirectly?

10. How widespread is the practice of misrepresenting that a fee or charge is a mandatory fee, charge, or tax imposed by a government entity? To what extent are such claims made expressly and to what extent are they made indirectly?

11. How widespread is the practice of misrepresenting or failing to disclose clearly and conspicuously fees or charges for terminating services or contracts? To what extent are those fees misrepresented expressly or indirectly during the marketing of a good or service?

12. For any practices discussed in Questions 1 through 11, above, does the practice cause consumer injury? If so, what type of consumer injury does it cause?

13. For each of the practices described in Questions 1 through 11, above, are there circumstances in which such practices would not be deceptive or unfair? If so, what are those circumstances, and could and should the Commission exclude such circumstances from the scope of any rulemaking? Why or why not?

14. Is there a need for new regulatory provisions to prevent the practices described in Questions 1 through 11, above? If yes, why? If no, why not?

15. How should a rule addressing the practices described in Questions 1 through 11, above, be crafted to maximize the benefits to consumers and to minimize the costs to legitimate businesses?

16. Should a rule addressing the practices described in Questions 1 through 11, above, require businesses to disclose in all advertising one price that encompasses all mandatory component parts, otherwise known as ''all-in pricing''? Why or why not? Should any such rule also require that the advertised price include government-imposed taxes or fees? Why or why not?

17. Should a rule addressing the practices described in Questions 1 through 11, above, forbid misrepresentations as to the nature, optionality, value, price, recurrence, or other material features of any fees? Why or why not?

18. Should a rule addressing the practices described in Questions 1 through 11, above, including any rule requiring disclosure of all-in pricing, apply to all industries? Would such a rule be better if it expressly applied only to certain industries? Are there any industries for which such a rule should not apply? Why or why not?

19. How would a rule addressing the practices described in Questions 1 through 11, above, intersect with existing industry practices, norms, rules, laws, or regulations? Are there any existing laws or regulations that would affect or interfere with the implementation of a rule addressing the practices described in Questions 1 through 11, above?

20. Should the Commission consider publishing additional consumer and business education materials or hosting public workshops to reduce consumer harm associated with the practices described in Questions 1 through 11, above? If so, what should such education materials include, and how should the Commission communicate that information to consumers and businesses?

21. Are there other commercial acts or practices involving junk fees or hidden fees that are deceptive or unfair that should be addressed in the proposed rulemaking? If so, describe the practices. How widespread are the practices? Please answer Questions 12 through 20, above, with respect to these practices.

IV. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 9, 2023. Write ''Unfair or Deceptive Fees ANPR, R207011'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the website *https://www.regulations.gov.*

Because of the public health protections and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''Unfair or Deceptive Fees ANPR, R207011'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580.

Because your comment will be placed on the public record, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* Commission Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *https://www.regulations.gov*—as legally required by Commission Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under Commission Rule 4.9(c), and the General Counsel grants that request.

Visit the Commission's website to read this document and the news release describing it. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely

and responsive public comments it receives on or before January 9, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/siteinformation/privacypolicy.*

By direction of the Commission, Commissioner Wilson dissenting.

April J. Tabor,

Secretary.

Note: the following statements will not appear in the Code of Federal Regulations.

Statement of Chair Lina M. Khan

Today we are considering the publication of an advance notice of proposed rulemaking to address the problem of junk fees. ''Junk fees'' are extra charges associated with unnecessary or worthless services. Companies often fail to disclose these fees up front. Earlier this week, the Commission announced a quintessential junk fee case. According to the complaint, Passport Auto advertised a price for cars that were certified, reconditioned, and inspected. But when people went to buy a car, they were hit with charges for certification, reconditioning, and inspection.

These types of extra or redundant fees can mislead consumers or prevent them from knowing the true cost of a purchase until they've already invested substantial time and energy. At that point, they may feel like it's too late to walk away. Junk fees also prevent consumers from making accurate price comparisons, which means they end up spending more than they expected or wanted to.

These fees don't only harm consumers—they can also force honest businesses to compete on an unfair playing field. A company selling a widget for 25 dollars might lose sales to a company selling a comparable widget for 20 dollars, plus a six-dollar widget-certification fee tacked on at the end.

Junk fees have come to feel like an inevitable fact of life. Consumer Reports found that eighty-two percent of those surveyed had spent money on hidden fees in the previous year. In reality, there's nothing inevitable about this.[1] These fees are a surprisingly recent phenomenon. So-called ''resort fees'' at hotels, for example, first emerged in the late 1990s. By 2015, they accounted for one-sixth of total hotel revenue. That's $2 billion per year.[2] In higher education and hospitality, fees are increasing faster than tuition or posted room rates.[3]

The Commission has a long track record of taking action against junk fees, and that deep experience would inform any potential rulemaking we undertake here. The FTC has regulated junk fees in sector-specific contexts, including telemarketing and funeral homes. It has also brought many enforcement cases, including against junk fees on prepaid phone cards, loan servicing, insurance-related products, and more. Merchants are free to set prices for services rendered. But when they add arbitrary, opaque fees that seem calibrated to squeeze more money out of customers—sometimes without their knowledge, or once it feels too late to back out—consumer protection laws can kick in.

Unfortunately, in areas where there is no specific rule or sector-specific law, the Commission lacks authority to seek penalties against violators or readily get financial compensation for victims. A forward-looking rule classifying certain junk fees as unfair or deceptive could give us that authority, allowing us to make wronged consumers whole and to seek penalties from lawbreakers. That, in turn, would help create a powerful deterrent against imposing junk fees. If we move forward with considering a rulemaking, we will carefully review public comments when deciding whether and how to craft a rule that would protect consumers from these potentially unfair or deceptive practices.

In fact, the public has already played a key role. Last fall, the Commission voted to make it easier for the public to submit petitions to the FTC.[4] One petition that came in concerned ''drip pricing,'' a business practice companies can use to try and hide junk fees. That petition helped spur the action we're announcing today. The goal of our procedural change was to make the rulemaking process more open and democratic, and I'm glad that we have been able to follow through.

I also want to extend my gratitude to staff for their hard work on this effort. I strongly support moving forward with this ANPR and beginning this process.

Statement of Commissioner Rebecca Kelly Slaughter

I'm sure that to the public some of the work we do at the Commission can seem obscure—only affecting a part of the market they don't really participate in. This matter is emphatically the opposite. There is probably no greater and universal frustration in modern American life than seeing an advertised price for a product or service and then getting to the cashier or online payment page and seeing that price balloon to what can feel like twice as much.

Unfair and deceptive pricing practices aren't just annoying, they can prey on people's sunk costs in a transaction to squeeze even more money out of them at the last minute—effectively raising prices without appearing to do so. Empirical research on hidden fees and drip pricing have suggested that these fees ''cause, or even trick, people into buying things they would not otherwise.''[1] In a time when many folks need to make hard choices about what to spend money on this kind of deception is even more unconscionable.

These practices undermine effective competition as well. As I mentioned during our vote for the Earnings Claims ANPR: Markets cannot function effectively without honest and transparent pricing. A market without transparent price signals can encourage deception and rent-seeking incentivizing creative ways to extract wealth instead of providing the goods and services people value.

The FTC has done great work in combating some of these practices. We've addressed mobile cramming charges, phone card charges, and fees in discount programs for goods and travel. We've also deployed our existing rules to combat hidden fees in telemarking scams, funerals, and to prevent companies from billing consumers without authorization. But, as in other areas where we have opened a rulemaking inquiry, case-by-case enforcement has not effectively deterred these practices. Our inquiry into the prevalence and harms of practices like junk-fees, drip-pricing, resort fees,

[1] *See* Consumer Reports, WTFee Survey: 2018 Nationally Representative Multi-Mode Survey 7 (2019), *https://advocacy.consumerreports.org/wp-content/uploads/2019/09/2018-WTFee-Survey-Report-_-Public-Report-1.pdf.*

[2] Nat'l Econ. Council, The Competition Initiative and Hidden Fees 7–15 (2016), *https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/hiddenfeesreport_12282016.pdf.*

[3] *See* Christopher Elliott, *There May Be an End in Sight for Controversial—And Often Invisible—Resort Fees,* Wash. Post (June 16, 2016), *https://www.washingtonpost.com/lifestyle/travel/there-may-be-an-end-in-sight-for-controversial-and-often-invisible-resort-fees/2016/06/16/101f6074-317e-11e6-8758-d58e76e11b12_story.html;* Farran Powell & Emma Kerr, *11 Surprising College Fees You May Have to Pay, U.S. News & World Report* (Feb. 12, 2020), *https://www.usnews.com/education/best-colleges/paying-for-college/slideshows/10-surprising-college-fees-you-may-have-to-pay.*

[4] Press Release, Fed. Trade Comm'n, FTC Opens Rulemaking Petition Process, Promoting Public Participation and Accountability (Sept. 15, 2021), *https://www.ftc.gov/news-events/news/press-releases/2021/09/ftc-opens-rulemaking-petition-process-promoting-public-participation-accountability.*

[1] Nat'l Econ. Council, The Competition Initiative and Hidden Fees 8 (2016), *http://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/hiddenfeesreport_12282016.pdf.*

service fees, and others is as necessary as it is timely.

I want to thank BCP's Division of Advertising Practices and the Office of the General Counsel for their partnership and hard work in developing this ANPR. I look forward to hearing more from the public on this matter.

Dissenting Statement of Commissioner Christine S. Wilson

Today the Commission votes to issue an advance notice of proposed rulemaking to address how prices are conveyed to consumers. Before discussing the substance of the ANPR, two procedural issues merit attention. First, the ANPR is based on the submission of a petition for rulemaking submitted by the Institute for Policy Integrity. I encourage consumer and industry groups to monitor the FTC's rulemaking docket and take seriously the public petitions that get published there—yesterday's petition may very well become today's ANPR.

Second, I was given less than three weeks to consider a rulemaking effort that, if adopted, could impact billions or even trillions of dollars in commerce, as well as millions of consumers and companies. I posed dozens of questions, many of which went unanswered. Today's proposal could launch rules that regulate the way prices are conveyed to consumers across nearly every sector of the economy. I understand that President Biden referenced so-called ''junk fees'' in remarks to the White House Competition Council on September 26, just three weeks ago.[1] Chair Khan sits on that Council. And I recognize that some of these fees may be inadequately disclosed. But manufactured deadlines based on our monthly open commission meeting schedule to demonstrate that the Commission is in lockstep with the Biden Administration should not override our obligation to exercise our significant authority in sober and thoughtful ways. If FTC leadership truly believes that this proposal will result in a rule, then it is irresponsible to shortchange the Commission on the time required to perform our due diligence.

There are kernels of utility in the ANPR that I had hoped to explore with my fellow Commissioners and staff. I agree with ensuring that consumers (1) have access to sufficient information to make informed decisions and (2) are not charged for products or services they did not agree to purchase. I would have looked more favorably on a rulemaking effort narrowly focused on those issues, particularly where we have an enforcement track record. But the version of the ANPR we discuss today is sweeping in its breadth; may duplicate, or contradict, existing laws and rules; is untethered from a solid foundation of FTC enforcement; relies on flawed assumptions and vague definitions; ignores impacts on competition; and diverts scarce agency resources from important law enforcement efforts. For these reasons, I cannot support the issuance of this ANPR.

Given my concerns, I would like to highlight issues on which stakeholder input would be constructive.

Breadth

- The ANPR explicitly mentions pricing practices in a wide array of industries, including auto financing, phone cards, fuel cards, payday lending, telecommunications, live entertainment, travel (including airlines, hotels, room-sharing, car rentals, and cruises), higher education, financial products and services, telemarketing, funeral services, publishing, insurance, and membership programs. Some of these sectors fall outside the FTC's jurisdiction. Of course, it is likely that a future rule will cover other industries not explicitly discussed in the ANPR, including e-commerce, retail, food services, healthcare, administration and business support, repair services, dating services, apartment rentals, commercial leasing, warehousing, logistics assistance, and professional and technical services. What other markets or industries could be covered by an omnibus pricing disclosure rule?[2]
- The GDP of the United States in 2021 totaled roughly $23 trillion dollars. What percentage of the goods and services for sale in the United States would be covered by the ANPR?
- Given the potential scope of this rule, it appears likely to be exercising a claim of authority that concerns an issue of ''vast economic and political significance'' and thereby could implicate the Major Questions Doctrine discussed in the recent Supreme Court decision, *West Virginia* v. *EPA*.[3] What precedent would support the perspective that Congress has clearly empowered the FTC to promulgate a rule that would regulate pricing disclosures for the breadth of good and services identified in the ANPR?
- Do pricing practices and fee disclosures vary across industries and markets? How would a rule requiring that marketing materials explain the purpose of any fees, interest, charges, or other costs work with the FTC's approach to clear and conspicuous disclosures across advertising mediums (*e.g.,* mobile screens or television ads)? Should the FTC mandate that marketing materials aimed at sophisticated business consumers include the same breadth and depth of fee disclosures as marketing materials targeting an individual consumer?
- Do consumer expectations about pricing practices and fee disclosures for repair services differ from those for healthcare? Across what sectors do consumers have homogenous expectations around pricing and fee disclosures?
- Are the harms from inadequately disclosed fees or illegitimate fees the same in all sectors? Do all industries lend themselves to a uniform pricing regime?

Rule Duplication

- The ANPR appears to overlap with several existing regulations related to advertising and disclosures enforced by the FTC and/or other expert agencies. How would industry and markets determine which rule controls should conflicts arise?
- How does this ANPR relate to the proposed Motor Vehicle Dealers Trade Regulation Rule, approved by the Commission on June 23, 2022, which focuses on pricing practices and fee disclosures in the automobile industry?
- The Truth in Lending Act (''TILA'') and Regulation Z outline complex credit disclosure requirements for open and closed-end credit, including advertisement terms that trigger disclosures about fees, interest, charges, or other costs. This ANPR considers imposing more stringent requirements by requiring disclosure of all fees, interest, and charges regardless of whether the advertisement contains trigger terms. Are there prevalent unfair or deceptive practices that would support the FTC's adoption of more stringent advertising requirements on the marketing of consumer products, *e.g.,* an Xbox, than the federal government imposes on the marketing of a home loan or credit card?
- The FTC enforces several laws and rules that govern when and how pricing information should be conveyed to

[1] Remarks by President Biden at the Third Meeting of the White House Competition Council (referencing many industries that do not fall within the FTC's jurisdiction) (Sept. 26, 2022), *https://whitehouse.gov/briefing-room/speeches-remarks/2022/09/26/remarks-by-president-biden-at-the-third-meeting-of-the-white-house-competition-council/.*

[2] Trade associations and consumer groups should take a close look at this ANPR to determine whether their members' practices could be impacted by any future rule.

[3] 142 S. Ct. 2587 (June 20, 2022).

consumers, including the Telemarketing Sales Rule (''TSR''), the Funeral Rule, the Restore Online Shoppers' Confidence Act (''ROSCA''), and the Rule Concerning the Use of Prenotification Negative Option Plans (''Negative Option Rule''). Is there evidence that we have been unable to address specific types of deceptive and unfair pricing practices, for example in the marketing of negative option transactions, with these marketing-specific rules? Do we need a rule that covers all transactions? If industry-specific rules have not prevented harm from pricing practices, how would additional rules bring about greater compliance?

• The Funeral Rule's goals are to lower barriers to price competition in the funeral goods and services market and to facilitate informed consumer choice. One way the Funeral Rule helps achieve these goals is to require funeral providers to ''unbundle'' the goods and services they sell and instead to offer them on an itemized basis. But this ANPR takes the opposite approach by favoring up-front, all-in pricing. How might this ANPR impact price transparency and competition?

Basis for the Rule

• Section 18 rules must be based on ''prevalent'' deceptive or unfair practices. Notably, this ANPR references several potentially deceptive and unfair fees that have been the subject of FTC workshops, business guidance, and even investigations, but *not* enforcement actions. Can the FTC meet the requisite showing of prevalence without any underlying FTC enforcement?

• What evidence, beyond law enforcement, can be used to demonstrate prevalence? Can a showing of prevalence be satisfied by a workshop or roundtable? News articles?

Flawed Assumptions and Vague Definitions

• The ANPR defines the term ''junk fees'' to include ''fees for goods or services that are deceptive or unfair . . . whether or not the fees are described as corresponding to goods or services that have independent value to the consumer.'' How should the Commission determine whether fees correspond to goods and services that consumers value? What percentage of consumers should be the threshold? A majority of consumers? A significant minority?

• Do fees sometimes viewed as unnecessary by consumers reflect attempts by businesses to recover incremental costs? Is it reasonable for businesses to impose fees to recover incremental costs? What percentage of incremental costs can a business recover before it becomes a ''junk fee''?

• The ANPR defines ''junk fees'' to include ''goods or services that consumers would reasonably assume to be included within the overall advertised price.'' What evidence does the FTC need to demonstrate consumer expectations about what services, products, or fees are covered by a published price? Should the FTC be required to demonstrate quantitative or qualitative measures of consumer expectations?

• The ANPR defines ''hidden fees'' as fees that ''are deceptive or unfair, including because they are disclosed only at a later stage in the consumer's purchasing process or not at all.'' At what point in a transaction should fees be disclosed to consumers? Is disclosing a fee before a consumer makes a purchase too late? Should disclosures occur at the same point in a transaction regardless of the industry or market? Why or why not?

• The ANPR indicates that the Commission is exploring the ''costs and benefits of a rule that would require upfront inclusion of any mandatory fees whenever consumers are quoted a price for a good or service.'' How would this proposal work for dynamic fees, like shipping and handling, that are based on consumer input?

• The ANPR asserts that ''junk fees . . . facilitate inflation.'' What evidence points to a connection between fees and inflation?

Impact on Competition

• To what extent does competition discipline suboptimal pricing practices?

• Would a government requirement for all-in pricing facilitate coordination among regulated companies in the same industry?

• Could a potential rule incentivize all-in pricing and the bundling of products and services, which would then require consumers to pay for goods and services they may not want or need?

Opportunity Costs

• In 2022, including proposals that I anticipate will be voted out during the open Commission meeting, the FTC has initiated the rulemaking process for a total of six new rules. These massive regulatory undertakings require substantial FTC resources. To what extent does our current rulemaking agenda divert resources from our primary law enforcement mandate? Are there other risks associated with our apparent attempt to become a powerful legislature?

○ Are there existing or emerging threats to consumers and competition we are not pursuing because resources are focused on rules instead of cases?

○ Will the credibility of the FTC be tarnished if we pursue broad rulemaking efforts without qualitative and quantitative evidence of consumer injury?

[FR Doc. 2022–24326 Filed 11–7–22; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 465

Trade Regulation Rule on the Use of Reviews and Endorsements

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (the ''Commission'') proposes to commence a rulemaking proceeding to address certain deceptive or unfair uses of reviews and endorsements. The Commission is soliciting written comment, data, and arguments concerning the need for such a rulemaking to prevent unfair or deceptive marketing utilizing reviews and endorsements. In addition, the Commission solicits comment on how the Commission can ensure the broadest participation by affected interests in the rulemaking process.

DATES: Comments must be received on or before January 9, 2023.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Reviews and Endorsements ANPR, P214504'' on your comment, and file your comment online at *https://www.regulations.gov.* If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer (202–326–2699), *mostheimer@ftc.gov,* or Michael Atleson (202–326–2962), *matleson@ftc.gov,* Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Room CC–10603, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. General Background Information

The Commission is publishing this advance notice of proposed rulemaking pursuant to Section 18 of the Federal Trade Commission (''FTC'') Act, 15 U.S.C. 57a, and the provisions of Part 1, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7–1.20, and 5 U.S.C. 553. This authority permits the Commission to promulgate, modify, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

II. Objectives the Commission Seeks To Achieve and Possible Regulatory Alternatives

A. Rulemaking Addressing Endorsements and Testimonials

1. Background

Fake and deceptive reviews and other endorsements have long been problematic, and we have no reason to believe the market will correct this problem on its own. The commercial incentives to engage in such misconduct can be large. It can be difficult for anyone—including consumers, competitors, platforms, and researchers—to distinguish real from fake and determine the truth in this area. Further, some platforms may have mixed incentives to deal effectively with the problematic reviews and, despite some platforms purporting to take enforcement of problematic reviews seriously, fake and deceptive reviews continue to flourish on those very platforms. The sheer number of people engaged in fraudulent or deceptive reviews and endorsements makes them even more difficult to combat, especially given such content is often created by individuals or small companies, some of whom are located abroad.

Although the Commission has brought several cases involving reviews and other endorsements under Section 5 of the FTC Act, 15 U.S.C. 45, our current remedial authority is limited. Monetary relief is no longer available under Section 13(b),[1] disgorgement is not available under Section 19(b), 15 U.S.C. 57b(b), and, while the Commission has deployed new tools to combat this problem, in many cases, it remains difficult to obtain monetary relief.[2] Under these circumstances, the availability of a civil penalty remedy may provide a potent deterrent. We believe initiating a Magnuson-Moss rulemaking to address certain types of clear Section 5 violations involving reviews and endorsements would benefit consumers, help level the playing field, and not burden legitimate marketers. The rule would be designed to deter bad actors, simplify our enforcement burdens by spelling out prohibitions plainly, and subject violators to civil penalties.

The Commission has well-established guidance on endorsements and testimonials. In particular, the Endorsement Guides reportedly remain very helpful to legitimate actors in the marketplace,[3] but Commission guides are not enforceable regulations. Truly bad actors will not be deterred by Commission guidance, but the possibility of substantial civil penalties changes the economic incentives and may provide greater deterrence as to both legitimate and bad actors.

2. Objectives and Regulatory Alternatives

The Commission requests input on whether and how it should use its authority under Section 18 of the FTC Act, 15 U.S.C. 57a, to address certain inarguably deceptive or unfair commercial acts or practices involving reviews or other endorsements. The Commission does not propose to cover every issue addressed in the Endorsement Guides. Specifically, the Commission proposes addressing the following practices, many of which have been the subject of Commission investigations or law enforcement actions: (a) reviews or endorsements by people who do not exist, who did not actually use or test the product or service, or who are misrepresenting their experience with it;[4] (b) review

[1] *AMG Capital Mgmt., LLC* v. *FTC,* 141 S. Ct. 1341 (2021).

[2] In October 2021, the Commission announced the issuance of a Notice of Penalty Offenses which can allow the FTC to obtain civil penalties from marketers that use fake reviews. *See www.ftc.gov/enforcement/penalty-offenses/endorsements.* Such notices, however, are limited to practices addressed in prior fully litigated administrative decisions, only apply to marketers that engaged in covered misconduct after receipt of the notice, and do not provide for or allow consumer redress. The Commission can still obtain consumer redress through Section 19(a)(2) of the FTC Act if the Commission can satisfy a court that a reasonable person would have known the act or practice at issue was dishonest or fraudulent. *See, e.g.,* Order at 2–4, *Fashion Nova LLC,* No. C–4759 (Mar. 18, 2022) (company that suppressed negative reviews agreed to pay $4.2 million). If the marketer refuses to settle, such relief can only be obtained in federal court after a fully litigated administrative decision. Furthermore, redress in matters involving deceptive review practices can be very difficult to calculate and disgorgement and civil penalties are not available through such proceedings.

[3] Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR part 255. In an ongoing regulatory review of the Endorsement Guides, the Commission received over one hundred public comments, most of which noted the Guides are beneficial and should be retained, and none of which disagreed. *See* 87 FR 44288, 44289–44290 (July 26, 2022).

[4] The Commission has challenged fabricated consumer reviews. S*ee, e.g.,* Complaint 9–17, *FTC* v. *Roomster Corp.,* No. 1:22–CV–07389 (S.D.N.Y. Aug. 30, 2022) (purchase and sale of fake app store and other reviews for room and roommate finder app and platform); Complaint at 2–4, *Sunday Riley Modern Skincare, LLC,* No. C–4729 (Nov. 6, 2020) (company personnel created fake accounts to write fake reviews of company's products on third-party retailer's website); Complaint at 12–13, 15–16, *Shop Tutors, Inc.,* No. C–4719 (Feb. 3, 2020) (reviews of LendEDU were fabricated by its employees, other associates, or their friends and published on a third-party website); Complaint at 20, *FTC* v. *Cure Encapsulations, Inc.,* No. 1:19–cv–00982 (E.D.N.Y. Feb. 26, 2019) (Amazon reviews of defendants' product were fabricated by one or more third parties whom defendants had paid to generate reviews). It has similarly challenged fictitious endorsements. *See, e.g.,* Complaint at 14, 19, *FTC* v. *A.S. Resch., LLC (Synovia),* No. 1:19–cv–3423 (D. Colo. Dec 5, 2019) (fake consumer testimonials); Complaint at 20–22, 31, *Global Cmty. Innovations LLC,* No. 5:19–CV–00788 (N.D. Ohio Apr. 10, 2019) (fake consumer testimonials); Complaint at 27–28, 43, *Jason Cardiff (Redwood Sci. Techs., Inc.),* No. ED 18–cv–02104 SJO (C.D. Cal. Oct. 24, 2018) (testimonials in infomercial were paid actors who had not used defendants' product); Complaint at 12–3, 20, *FTC* v. *Mktg. Architects, Inc.,* No. 2:18–cv–00050–NT (D. Me. Feb. 5, 2018) (fake testimonials); Complaint at 14, 21, *FTC* v. *Health Rsch. Labs., LLC,* No. 2:17–cv–00467–JDL (D. Me. Nov. 30, 2017) (fake consumer testimonials and expert endorsements); Complaint at 13, 18, 28, *XXL Impressions LLC,* No. 1:17–cv–00067–NT (D. Me. Feb. 22, 2017) (defendants do not know whether consumer endorsers of their products who appeared in their ads actually exist); Complaint at 5, 7, 12–13, *FTC* v. *Anthony Dill,* No. 2:16–cv–00023–GZS (D. Me. Jan. 19, 2016) (fake testimonials); Amended Complaint at 38–39, 43–44, *FTC* v. *Lisa Levey,* No. 03–4670 GAF (C.D. Cal. Mar. 8, 2004) (fictitious expert endorsements). It has also challenged false claims that specific celebrities endorsed specific products, services, or businesses. *See, e.g.,* Complaint at 15, 19–20, 30–31, *Global Cmty. Innovations LLC,* No. 5:19–CV–00788 (N.D. Ohio Apr. 10, 2019); Complaint at 5, 18–20, 22–23, 36, *FTC* v. *Tarr, Inc.,* No. 3:17–cv–02024–LAB–KSC (S.D. Cal. Oct. 3, 2017); Complaint at 13–15, 18, *Sales Slash, LLC,* No CV15–03107 (C.D. Cal. Apr. 27, 2015); Complaint at 2, 4–5, *Norm Thompson Outfitters, Inc.,* No. C–4495 (Sept. 29, 2014); *The Raymond Lee Org., Inc.,* 92 F.T.C. 489 (1978) (use of the names, photographs and words of public officials, including members of the Congress, misled consumers that the officials recommended or endorsed the business). It has similarly challenged false claims of endorsements by specific entities. *See, e.g.,* Complaint at 15–16, 18, *FTC* v. *Mercola.com, LLC,* No. 1:16–cv–04282 (N.D. Ill. Apr. 13, 2016) (misrepresentation the FDA endorsed the use of indoor tanning systems as safe); *Mytinger & Casselberry, Inc.,* 57 F.T.C. 717, 743–46 (1960) (misrepresentation that a consent decree restraining respondents from making certain claims was an endorsement by the U.S. government of its product); *Trade Union Courier Publ'g Corp.,* 51 F.T.C. 1275, 1300–03 (1955) (misrepresentation that newspaper was endorsed by the American Federation of Labor when it was only endorsed by some unions within the AFL); *Ar-Ex Cosms., Inc.,* 48 F.T.C. 800, 806 (1952) (misrepresentation that lipstick had been recommended by Consumers' Research); *A. P. W. Paper Co., Inc.,* 38 F.T.C. 1, 15–17 (1944) (misrepresentation that product was endorsed by the American Red Cross); *Wilbert W.*

Continued

hijacking, where a seller steals or repurposes reviews of another product; (c) marketers offering compensation or other incentives in exchange for, or conditioned on, the writing of positive or negative consumer reviews; [5] (d) owners, officers, or managers of a company: (i) writing reviews or testimonials of their own products or services, or publishing testimonials by their employees or family members, which fail to provide clear and conspicuous disclosures of those relationships, or (ii) soliciting reviews from employees or relatives without instructing them to disclose their relationships; [6] (e) the creation or operation of websites, organizations, or entities that purportedly provide independent reviews or opinions of products or services but are, in fact, created and controlled by the companies offering the products or services; [7] (f) misrepresenting that the consumer reviews displayed represent most or all of the reviews submitted when, in fact, reviews are being suppressed based upon their negativity; [8] (g) the suppression of customer reviews by physical threat or unjustified legal threat; [9] or (h) selling, distributing, or buying, followers, subscribers, views, and other indicators of social media influence.[10] The Commission hopes that by focusing on practices most clearly and inarguably deceptive or unfair, it can streamline its rulemaking, benefit consumers, and not burden legitimate marketers.

The Commission seeks comment on, among other things, the prevalence of each of the above practices, the costs and benefits of a rule that would address them, and alternatives to such a rulemaking, such as the publication of additional consumer and business education. In their replies, commenters should provide any available evidence and data that supports their position, such as empirical data, consumer perception studies, and consumer complaints.

3. The Rulemaking Process

The Commission seeks the broadest participation by the affected interests in the rulemaking. To that end, the Commission will proceed through an ''open rulemaking,'' which will provide all affected interests numerous opportunities to submit comments and to participate in the rulemaking process. The Commission encourages all interested parties to submit written comments.

The Commission also expects the affected interests to assist the Commission in analyzing various options and in drafting a proposed rule. The Commission believes public workshop conferences to discuss the various issues involving the rule are a productive and efficient means to develop the record and explore various alternatives. The Commission will also use public workshop conferences to assist the Commission in drafting a proposed rule.

Haase Co., Inc., 33 F.T.C. 662, 681–83 (1941) (misrepresentation that insurance company had endorsed burial vault business and its vaults). Furthermore, the Commission has challenged advertisements that misrepresent endorsers' experiences. *See, e.g.,* Complaint at 14, 18, *FTC* v. *A.S. Resch., LLC (Synovia),* No. 1:19–cv–3423 (testimonialists had used a prior product formulation that contained substantially different ingredients); Complaint at 22, 25, *NextGen Nutritionals, LLC,* No. 8:17–cv–2807–T–36AEP (M.D. Fla. Jan. 9, 2018) (testimonials in ads misrepresented the actual experiences of customers); Complaint at 22–24, 27, *FTC* v. *Russel T. Dalbey,* No. 1:11–cv–01396–CMA—KLM (D. Colo. May 26, 2011) (testimonials misrepresented earnings from brokering promissory notes using defendants' system); *Computer Bus. Servs., Inc.,* 123 F.T.C. 75, 78–79 (1997) (testimonials by purchasers of home-based business ventures did not reflect their actual experiences); *R. J. Reynolds Tobacco Co.,* 46 F.T.C. 706, 731–32 (1950) (endorsements communicated endorsers exclusively smoked Camel cigarettes whereas they did not smoke cigarettes, did not smoke Camels exclusively, or could not tell the difference between Camels and other cigarettes).

[5] The Commission has challenged giving an incentive for a review or endorsement and requiring that it be positive. *See, e.g.,* Complaint at 14, 19–20, *FTC* v. *A.S. Resch., LLC (Synovia),* No. 1:19–cv–3423 (offered consumer endorsers with free product in exchange for ''especially positive and inspiring'' reviews); Complaint at 5–6, 8, *Urthbox, Inc.,* No. C–4676 (Apr. 3, 2019) (deceptively provided compensation for the posting of positive reviews on the BBB's website and other third-party websites); Complaint at 2–3, *AmeriFreight, Inc.,* No. C–4518 (Feb. 27, 2015) (every month past customers were encouraged to submit reviews of respondent's services in order to be eligible for a $100 ''Best Monthly Review Award'', given to ''the review with the most captivating subject line and best content'' and that they should ''be creative and try to make your review stand out for viewers to read!'').

[6] The Commission has challenged such conduct. *See, e.g.,* Complaint at 2–4, *Sunday Riley Modern Skincare, LLC,* No. C–4729 (Nov. 6, 2020) (company owner and managers asked company employees to write product reviews on third-party retailer's website); Complaint at 15, 19–20, *FTC* v. *Health Ctr., Inc.,* No. 2:20–cv–00547 (D. Nev. Mar. 19, 2020) (defendants used testimonials from their employees that purported to be from ordinary consumers); Complaint at 14, 19, *FTC* v. *A.S. Resch., LLC (Synovia),* No. 1:19–cv–3423 (ads include testimonial by 50% owner and officer); Complaint at 5–6, 8–9, *Mikey & Momo, Inc.,* No. C–4655 (May 3, 2018) (Amazon reviews written by company officer and her relatives); Complaint at 21, 25–26, *FTC* v. *NutriMost LLC,* No. 2:17–cv–00509–NBF (W.D. Pa. Apr. 20, 2017) (testimonials in ads were from licensees or franchisees, their relatives, or their employees); Complaint at 10, 12, *FTC* v. *Aura Labs, Inc.,* No. 8:16–cv–02147 (C.D. Cal. Dec. 12, 2016) (app store review and website testimonials by CEO or relatives of Chairman); Complaint at 25–27, 32–33, *FTC* v. *Universal City Nissan, Inc.,* No. 2:16–cv–07329 (C.D. Cal. Sept. 29, 2016) (customer reviews on third-party websites written by managers); Complaint at 19, 21, *FTC* v. *Genesis Today, Inc.,* No. 1:15–cv–00062 (W.D. Tex. Jan. 26, 2015) (video testimonials to which defendants' promotional materials linked were provided by defendants' employees); Complaint at 10, *U.S.* v. *Spokeo, Inc.,* No. 2:12–cv–05001–MMM–SH (C.D. Cal. June 7, 2012) (defendant directed its employees to draft endorsements and post them on news and technology websites); *Gisela Flick,* 116 F.T.C. 1108, 113–14 (1993) (infomercial endorsement by company's Athletic Director).

[7] The Commission has challenged sellers who control websites claiming to provide independent opinions of products. *See, e.g.,* Complaint at 2, 8–9, *Son Le.,* No. C–4619 (May 31, 2020) (respondents operated purportedly independent websites that reviewed their own trampolines); Complaint at 19–20, 28, *FTC* v. *Roca Labs, Inc.,* No. 8:15–cv–02231–MSS–TBM (M.D. Fla. Sept. 24, 2015) (defendants operated Gastricbypass.me website, a purported independent, objective resource, which endorsed defendants' products); Complaint at 21–25, 28, *FTC* v. *NourishLife, LLC,* No. 1:15–cv–00093 (N.D. Ill. Jan. 7, 2015) (defendants operated Apraxia Research website, a purported independent, objective resource, which endorsed a type of supplement sold only by defendants). It has also challenged sellers who control purportedly independent organizations or entities that reviewed or approved the sellers' products or services. *See, e.g.,* Complaint at 3–5, *Bollman Hat Co.,* No. C–4643 (Jan. 23, 2018) (respondents created seal misrepresenting that independent organization endorsed their products as made in the United States); Complaint at 18–20, 26, *NextGen Nutritionals, LLC,* No. 8:17–cv–2807–T–36AEP (M.D. Fla. Jan. 9, 2018) (misrepresentation that sites displaying the Certified Ethical Site Seal were verified by an independent, third-party program); Complaint at 2–4, *Moonlight Slumber, LLC,* No. C–4634 (Sept. 28, 2017) (respondent misrepresented that baby mattresses had been certified by Green Safety Shield, when in fact the shield was its own designation); Complaint at 4–6, *Benjamin Moore & Co., Inc.,* No. C–4646 (July 11, 2017) (respondent used seal of its own creation to misrepresent that paints had been endorsed or certified by independent third party); Complaint at 2–4, *ICP Constr. Inc.,* No. 4648 (July 11, 2017) (same); Complaint at 2–3, *Ecobaby Organics, Inc.,* No. C–4416 (July 25, 2013) (manufacturer misrepresented seal was awarded by industry association when in fact it created and controlled that association); Complaint at 2–4, *Nonprofit Mgmt. LLC,* No. C–4315 (Jan. 11, 2011) (respondents misrepresented their seal program was endorsed by two associations when in fact a respondent owned and operated them); Complaint at 34, 37, *FTC* v. *A. Glenn Braswell,* No. 2:03–cv–03700–DT–PJW (C.D. Cal. May 27, 2003) (defendants established Council on Natural Nutrition and then misrepresented it was an independent organization of experts who had endorsed defendants' products).

[8] The Commission has challenged the suppression of customer reviews based upon their negativity. *See* Complaint at 1–2, *Fashion Nova LLC,* No. C–4759 (Mar. 18, 2022). Commission staff has also addressed the issue in a closing letter. *See* Letter from Serena Viswanathan, Acting Associate Director, Division of Advertising Practices to Amy R. Mudge and Randall M. Shaheen, Counsel for Yotpo, Ltd. (Nov. 17, 2020), *https://www.ftc.gov/system/files/documents/closing_letters/nid/202_3039_yotpo_closing_letter.pdf.*

[9] The Commission has challenged review suppression through threats and intimidation as unfair. *See* Complaint at 8–10, 12, *World Patent Mktg., Inc.,* No. 1:17–cv–20848–DPG (S.D. Fla. Mar. 6, 2017).

[10] The Commission has challenged the sale of fake indicators of social media influence, such as fake Twitter followers. *See* Complaint at 5, *FTC* v. *Devumi, LLC,* No. 9:19–cv–81419–RKA (S.D. Fla. Oct. 18, 2019).

4. Public Workshop Conferences

In order to facilitate the greatest participation by the public in the rulemaking process, Commission staff will hold several public workshop conferences to discuss the issues noted above. Staff will announce a schedule of these conferences after the close of the comment period.

III. Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of the proposed rulemaking. The Commission requests factual data upon which the comments are based be submitted with the comments. In addition to the issues raised above, the Commission solicits public comment on the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. Please identify the evidence and data source(s) that support each of your answers.

Questions

(1) How widespread is the marketing of products or services using:

a. reviews or other endorsements by nonexistent individuals or by those who did not actually use or test the product or service;

b. reviews or other endorsements by individuals who are misrepresenting their experiences with a product or service;

c. review hijacking (where a seller steals or repurposes reviews from another product);

d. paid or incentivized consumer reviews that were required to be positive or required to be negative (if of a competitor's product);

e. consumer reviews written by the owners, officers, or employees of the company offering the product or service, or their family members; or

f. Websites or other organizations or devices that purportedly provide independent reviews or opinions of products or services but are in fact created and controlled by the companies offering the products or services?

(2) How widespread is the suppression of negative consumer reviews:

a. on retailer websites because the retailers filter out and do not publish negative reviews; or

b. by marketers threatening the authors of the reviews (other than through the form contract provisions prohibited by the Consumer Review Fairness Act)?

(3) How widespread is:

a. the sale of followers, subscribers, views, and other indicators of social media influence;

b. the purchase and use for commercial purposes of followers, subscribers, views, and other indicators of social media influence?

(4) For each of the practices described in Questions 1 through 3, above, does the practice cause consumer injury? If so, what evidence demonstrates such practices cause consumer injury?

(5) For each of the practices described in Questions 1 through 3, above, does the practice cause injury to competition? If so, what evidence demonstrates such practices cause injury to competition?

(6) For each of the practices described in Questions 1 through 3, above, are there circumstances in which such practices would not be deceptive or unfair? If so, what are those circumstances and could and should the Commission exclude such circumstances from the scope of any rulemaking? Why or why not?

(7) Please provide any evidence concerning consumer perception of, or experience with, consumer reviews or other endorsements relevant to the practices described in Questions 1 through 3, above.

(8) What existing laws and regulations, other than the FTC Act, if any, cover the practices described in Questions 1 through 3, above? How do those laws affect consumers? How do those laws affect businesses, particularly small businesses?

(9) What actions, if any, have platforms taken to address the practices described in Questions 1 through 3, above? Have those actions been effective in reducing consumer harm associated with the practices described in Questions 1 through 3, above? Why or why not?

(10) What actions have others taken to facilitate or enable the practices described in Questions 1 through 3, above? For example, what types of services specifically allow marketers to engage in these practices, and who is providing these services?

(11) Is there a need for new regulatory provisions to prevent the practices described in Questions 1 through 3, above? If yes, why? If no, why not? What evidence supports your answer?

(12) How should a rule addressing the practices described in Questions 1 through 3, above, be crafted to maximize the benefits to consumers while minimizing the costs to businesses under either approach? What evidence supports your answer?

(13) Do current or impending changes in technology or market practices affect whether and how a rulemaking should proceed? If so, what are such changes and how do they affect whether and how a rulemaking should proceed?

(14) Are there foreign or international laws, regulations, or standards addressing reviews or endorsements the Commission should consider as to whether and how a rulemaking should proceed? If so, what are they? Should the Commission consider adopting, or avoiding, any of these? If so, why? If not, why not?

(15) Should the Commission consider additional consumer and business education to reduce consumer harm associated with the practices described in Questions 1 through 3, above? If so, what should such education materials include, and how should the Commission communicate that information to consumers and businesses?

(16) What alternatives to regulations should the Commission consider when addressing the practices described in Questions 1 through 3, above? Would those alternatives obviate the need for regulation? If so, why? If not, why not? What evidence supports your answer?

(17) Are there other commercial acts or practices involving reviews or other endorsements that are inarguably deceptive or unfair that should be addressed in the proposed rulemaking? If so, describe the practices. How widespread are the practices? Please answer Questions 4 through 8, 10, 11, 14, and 15 with respect to the practices.

IV. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 9, 2023. Write ''Reviews and Endorsements ANPR, P214504'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Because of the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''Reviews and Endorsements ANPR, P214504'' on your comment and on the envelope, and mail your comment to the following address:

Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580.

Because your comment will be placed on the public record, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before January 9, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, *see https://www.ftc.gov/site-information/privacy-policy.*

By direction of the Commission, Commissioner Wilson dissenting.

April J. Tabor,

Secretary.

Note: The following statements will not appear in the Code of Federal Regulations.

Statement of Chair Lina M. Khan

Online shopping runs on reviews. When you're in a brick-and-mortar store, you can see the inventory. If it's a couch, you can sit on it. If it's a TV, you can watch it. But when you're shopping online, it's much harder to know what you're actually buying. That's why reviews are so crucial. If 500 other people have bought something and say it works, you can have a lot more confidence.

But what if those people were paid to leave those positive reviews? Or what if they're bots? What if the seller is hiding a thousand one-star reviews?

That's the dilemma when you shop online. Reviews are essential, but it's hard to know when they can be trusted. Precisely because of the importance of reviews, firms can face powerful incentives to game the system. Businesses have been caught leaving positive reviews for their own products or services, suppressing negative ones, and boosting bad reviews of their competitors.[1] The incentives extend beyond the seller of the product itself. The platforms that host reviews may also, in some instances, benefit indirectly from fake ratings and endorsements and have financial incentives to turn a blind eye to misconduct that brings in revenue.

These practices don't only harm the consumers who place their trust in fake reviews. They also pollute the marketplace and put honest businesses at a competitive disadvantage.

The Commission has brought several enforcement actions to address this issue. In January, for example, the Commission settled allegations that the fast-fashion company Fashion Nova had suppressed negative reviews.[2] And in August, the Commission, along with several state attorneys general, sued Roomster for allegedly flooding its rental listing marketplace with phony reviews.[3]

In addition to enforcement activity, the Commission has used other authorities to try to address market-wide problems with fake reviews. Last year, the Commission put more than 700 companies on notice regarding its litigated decisions in this area, which triggered the FTC's penalty offense authority.[4] This past May, the Commission also proposed revisions to tighten its guidelines for advertisers who use endorsements and reviews and to warn social media platforms about inadequate disclosure.

With today's advance notice of proposed rulemaking, the Commission is seeking comment from the public on whether rulemaking would be an appropriate way to address the problem more systemically. A rulemaking here would provide benefits beyond the agency's other powers. The Supreme Court decision in *AMG Capital Management, LLC* v. *FTC* substantially limited our ability to seek monetary relief for harmed consumers.[5] A rule against fake reviews could enable us to obtain civil penalties and return money to consumers injured as a result of

[1] *See, e.g.,* Sherry He, et al., *The Market for Fake Reviews,* 41 Mktg. Sci. 896 (2020) (measuring the impact of fake reviews on Amazon sales); Theodore Lappas, et al., *The Impact of Fake Reviews on Online Visibility: A Vulnerability Assessment of the Hotel Industry,* 27 Info. Sys. Rsch. 940 (2016); Renee DiResta, *Manipulating Consumption, Medium* (Jun. 29, 2018), *https://medium.com/@noupside/manipulating-consumption-42f2e9013d0b.*

[2] Press Release, Fed. Trade Comm'n, Fashion Nova will Pay $4.2 Million as part of Settlement of FTC Allegations it Blocked Negative Reviews of Products (Jan. 25, 2022), *https://www.ftc.gov/news-events/news/press-releases/2022/01/fashion-nova-will-pay-42-million-part-settlement-ftc-allegations-it-blocked-negative-reviews.*

[3] Press Release, Fed. Trade Comm'n, FTC, States Sue Rental Listing Platform Roomster and Its Owners for Duping Prospective Renters with Fake Reviews and Phony Listings (Aug. 30, 2022), *https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-states-sue-rental-listing-platform-roomster-its-owners-duping-prospective-renters-fake-reviews.* In addition, in 2019, the FTC sued a company called Synovia for marketing a fake arthritis cure with fake testimonials and fake doctor endorsements. Press Release, Fed. Trade Comm'n, FTC Stops Marketers from Making False Arthritis Treatment Claims (Dec. 5, 2019), *https://wwhw.ftc.gov/news-events/news/press-releases/2019/12/ftc-stops-marketers-making-false-arthritis-treatment-claims.* In January of this year, the Commission settled with Vision Path for, among other things, failing to disclose that one of its own senior employees posted a positive review on the BBB website. Press Release, Fed. Trade Comm'n, Vision Path, Inc., Online Seller of Hubble Lenses, Settles Charges it Violated the Contact Lens Rule and FTC Act to Boost Sales (Jan. 28, 2022), *https://www.ftc.gov/news-events/news/press-releases/2022/01/vision-path-inc-online-seller-hubble-lenses-settles-charges-it-violated-contact-lens-rule-ftc-act.*

[4] Fed. Trade Comm'n, *Penalty Offenses Concerning Endorsements, https://www.ftc.gov/enforcement/penalty-offenses/endorsements.*

[5] *AMG Capital Mgmt.* v. *FTC,* 141 S. Ct. 1341 (2021).

deceptive or unfair reviews and endorsements.

I am grateful to staff for their hard work on this ANPR. And I am happy to cast my vote in favor of beginning this process. It's critical that the Commission use all its authorities in order to prohibit unfair or deceptive practices—and to help consumers who have been harmed by them. I look forward to hearing from the public and stakeholders as the agency embarks on the rulemaking process.

Statement of Commissioner Rebecca Kelly Slaughter

Online reviews and endorsements of products and services play a powerful role in influencing consumer choices. From 1996 to 2018, 233 million product reviews were posted on Amazon alone.[1] Last month, my own fridge unexpectedly broke down and I had to scramble to find a repairman. Like many consumers, I relied on online reviews and other endorsements to decide whom to hire for this important task. The importance of consumer reviews to modern commerce makes the problem of fake and deceptive reviews even more pernicious. Companies like Yelp flag about 25% of reviews as ''less reliable'' and a recent report found that 10.7% of all Google reviews are fake.[2] These practices harm not only consumers, but also mom-and-pop businesses, like my new and excellent appliance repairman, who rely on online reviews to attract new customers.

So, I'm pleased to support today's publication of this Advance Notice of Proposed Rulemaking on Reviews and Endorsements to help ensure that people have accurate information about the products and services they buy. The ANPR asks important questions about the prevalence of these practices. Our inquiry here asks questions about practices from fake reviews by non-existent people, or people who have never actually used the product, to review suppression, and the practice of buying followers or subscribers as an indicator of social media influence.

I hope that an open inquiry into these practices will also be illuminating for the Commission. I'm troubled by the lack of transparency by platforms and the subsequent difficulty in addressing consumer harm. Companies like Amazon, for example, claim that less than 1% of their reviews are inauthentic, but this stands in stark contrast to consumer experiences and third-party estimates.[3] Deceptive reviews waste people's time and money. A recent survey has found that consumers estimated having wasted about $125 in the prior year due to ''inaccurate'' reviews.[4]

The FTC's work on fake reviews and endorsements is a great example of our ''every tool in the toolbox'' approach to deterring unlawful conduct in the market. Our Endorsements Guides have been helpful in setting expectations for market participants about our enforcement priorities in this area. After the loss of our Section 13(b) authority the Commission announced a revised Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct around Endorsements and Testimonials last year, allowing the agency to collect civil penalties from those law violators to whom we have provided notice. And now, with this vote, we've begun the process of considering rules that could help ensure that consumers can trust the information they use to buy goods and services, online and offline.

I want to thank BCP's Division of Advertising Practices and the Office of the General Counsel for their partnership and hard work in developing this ANPR. I look forward to hearing more from the public.

Dissenting Statement of Commissioner Christine S. Wilson

Today the Commission votes to issue an Advance Notice of Proposed Rulemaking (''ANPR'') seeking comment on a proposed rule addressing fake and deceptive reviews and endorsements. The FTC has challenged these practices, and platforms have sought to combat them, but deception continues to flourish. I agree that these practices are unlawful, and I have supported the FTC's enforcement and guidance in this area. Notably, the Commission recently authorized additional tools to address these issues—tools that we were chastised for not deploying sooner. Given recent deployment of those tools, as well as ongoing efforts to update our Endorsement Guides, I do not believe that initiating yet another Section 18 rulemaking is the best use of our scarce resources, particularly given the nature of the harm at issue here. And the opportunity cost of launching yet another rulemaking is high, because the division overseeing this rule is also charged with enforcement in the opioids arena. For these reasons, I dissent.

I appreciate that our remedial authority is limited. The Commission cannot obtain civil penalties for first-time violations of Section 5 of the FTC Act, and the Supreme Court's decision in *AMG* ended the Commission's use of Section 13(b) to obtain equitable monetary relief.[1] But the harm that results from the deception at issue is speculative in nature. The ANPR acknowledges that redress in matters involving deceptive review practices can be difficult to calculate, and we know that many retailers and platforms have procedures in place to screen out and reject fake reviews. An endorsement or a review may sway a consumer to purchase a product or service, in part, and should be truthful. But, in cases involving deceptive endorsements or fake reviews, there often is no allegation that the product or service did not perform as represented. The endorsement or review in many cases is not the central claim.[2]

Moreover, the Commission already has a multi-pronged strategy in place to combat this issue. To educate businesses regarding their obligations, the Commission has published Guides Concerning the Use of Endorsements and Testimonials (''Endorsement Guides'') and a companion business guidance piece. Earlier this year, the Commission sought comment on potential updates and revisions to the Endorsement Guides.[3] In October 2021, the Commission issued a Notice of Penalty Offenses which, as explained in the ANPR, may enable the Commission to obtain civil penalties from marketers that use fake or deceptive endorsements

[1] *See* Jianmo Lee et al., Justifying Recommendations using Distantly-Labeled Reviews and Fined-Grained Aspects, Empirical Methods in Natural Language Processing (EMNLP) 2019, *https://research-it.wharton.upenn.edu/data/amazon-user-review-database/*.

[2] See Ryan Kailath, ''Some Amazon Reviews Are Too Good to Be Believed. They're Paid For,'' NPR (July 30, 2018), *https://www.npr.org/2018/07/30/629800775/some-amazon-reviews-are-too-good-to-bebelieved-theyre-paid-for*; Greg Sterling, ''Fake Reviews: How Big a Problem Exactly?'', Uberall (Oct. 28, 2021), *https://uberall.com/enus/resources/blog/how-big-a-problem-are-fake-reviews*.

[3] *See id.*

[4] Canvas8, ''The Critical Role of Reviews in internet Trust,'' 2020, Feb. 26, 2020, *https://business.trustpilot.com/guidesreports/build-trusted-brand/the-critical-role-of-reviews-in-internet-trust*.

[1] *AMG Capital Mgmt., LLC* v. *FTC,* 141 S. Ct. 1341 (2021).

[2] Last year, the Commission issued a Notice of Penalty Offenses for earnings claims and later authorized an Advanced Notice of Proposed Rulemaking seeking comment on a proposed rule. I supported both of those recommendations. Earning claims relate to the core functionality and efficacy of the product or service being marketed. The claims addressed in the earnings claims Notice of Penalty Offenses and the ANPR are typically fraudulent and significant monetary harm often results from the deception. For that reason, I was comfortable seeking comment on that proposed rule.

[3] FTC Press Release: FTC Proposes to Strengthen Advertising Guidelines Against Fake and Manipulated Reviews (May 19, 2022), *https://www.ftc.gov/news-events/news/press-releases/2022/05/ftc-proposes-strengthen-advertising-guidelines-against-fake-manipulated-reviews*.

or reviews.[4] Commissioner statements issued at that time lauded the resurrection of these types of Notices, describing them as unique tools that the Commission had allowed to languish and that would to allow staff to pursue the full range of actions against bad actors.[5] While the ANPR now downplays their likely impact, the agency invested non-trivial resources in drafting the Notice of Penalty Offenses, identifying potential recipients, and serving it on more than 700 entities.[6] Rather than churning out another proposed rule, perhaps we should stay the course on these initiatives and devote the incremental resources to enforcement in other critical areas.

The opportunity cost of yet another rulemaking should not be understated. Importantly, as noted above, the division that has responsibility for endorsements also oversees enforcement of the Opioid Addiction Recovery Fraud Prevention Act. Last year, after an 18-month delay not caused by staff, the Commission announced its first case under this statute.[7] For the second consecutive year, deaths from overdoses rose dramatically and now exceed the country's peak deaths from AIDS, car crashes, and guns.[8] Our citizens who suffer from opioid addiction are some of the most vulnerable people in this country; we could use our power and authority to great benefit by devoting more resources to this area.

Although I disagree with its issuance, it is worth noting that staff's approach to this ANPR is laudable. Rather than employing an ''everything but the kitchen sink'' approach, the ANPR is carefully tailored to focus on practices that are likely to be clear violations of Section 5. For the reasons described in this statement, I cannot support its issuance.

Accordingly, I dissent.

[FR Doc. 2022–24139 Filed 11–7–22; 8:45 am]

BILLING CODE 6750–01–P

[4] *See www.ftc.gov/enforcement/penalty-offenses/endorsements.*

[5] For example, Commissioner Chopra wrote that ''this unique authority in consumer protection enforcement . . . that past Commissioners largely ignored, depriving our hardworking staff of the ability to pursue the full range of actions against bad actors . . . is particularly important given the Supreme Court's recent ruling in *AMG Capital Management.*'' Rohit Chopra, Prepared Remarks of Commissioner Rohit Chopra, *Regarding the Resurrection of the FTC's Penalty Offense Authority to Deter False Claims by For-Profit Colleges* (Oct. 6, 2012), *https://www.ftc.gov/system/files/documents/public_statements/1597178/prepared_remarks_of_commissioner_chopra_re_penalty_offense.pdf.* He further observed that ''[a]ctivating the FTC's Penalty Offense Authority is one of many examples where the agency needs to put its tools to use, rather than letting them languish.'' *Id.* Chair Khan agreed, tweeting that ''@FTC is resurrecting its Penalty Offense Authority to put companies on notice that certain practices are unlawful and violators will be hit with significant financial penalties.'' Lina Khan, @linakhanFTC, *https://twitter.com/linakhanftc/status/1445816849430634496.* The Notice of Penalty Offenses for endorsements was issued on Oct. 13, 2021.

[6] FTC Press Release, FTC Puts Hundreds of Businesses on Notice about Fake Reviews and other Misleading Endorsements (Oct. 13, 2021), *https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-puts-hundreds-businesses-notice-about-fake-reviews-other-misleading-endorsements.*

[7] Christine S. Wilson, Concurring Statement of Commissioner Christine S. Wilson, R360 LLC (May 17, 2022), *https://www.ftc.gov/system/files/ftc_gov/pdf/2022-05-17-R360-Commissioner-Wilson-Statement-FINAL.pdf.*

[8] Noah Weiland and Margot Sanger-Katz, ''Overdose Deaths Continue Rising, With Fentanyl and Meth Key Culprits, NY Times (May 11, 2022), *https://www.nytimes.com/2022/05/11/us/politics/overdose-deaths-fentanyl-meth.html?action=click&pgtype=Article&state=default&module=styln-opioid&variant=show&region=MAIN_CONTENT_1&block=storyline_levelup_swipe_recirc.*

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 571

RIN 3141–AA68

Audit Standards

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule; correction.

SUMMARY: The National Indian Gaming Commission inadvertently referred to an incorrect RIN in a recent proposed rule published in the **Federal Register** concerning audit standards. This document corrects that error in the proposed rule.

DATES: This correction is effective November 8, 2022, and is applicable beginning October 21, 2022.

FOR FURTHER INFORMATION CONTACT: Michael Hoenig, 202–632–7003.

SUPPLEMENTARY INFORMATION: The proposed rule on audit standards used an incorrect RIN. The RIN used (RIN 3141–AA72) is assigned to Self Regulation of Class II Gaming Activities. The correct reference for the audit standards regulations is RIN 3141–AA68.

Correction

In proposed rule FR Doc. 2022–11482, beginning on page 33091 in the issue of June 1, 2022, make the following correction. On page 33091, correct the RIN in the document heading to read ''RIN 3141–AA68''.

Dated: November 2, 2022.

Michael Hoenig,

General Counsel.

[FR Doc. 2022–24305 Filed 11–7–22; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0895]

RIN 1625–AA00

Safety Zone; Potomac River, Between Charles County, MD and King George County, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Potomac River. This action is necessary to provide for the safety of life on these navigable waters at the old Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge during demolition operations from February 1, 2023 through February 14, 2023. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before December 8, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0895 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ron Houck, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2674, email *D05-DG-SectorMD-NCR-Prevention-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security

FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

Skanska-Corman-McLean, Joint Venture notified the Coast Guard that it will be conducting demolition of the old Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge, which will occur from 12:01 a.m. on February 1, 2023, to 11:59 p.m. on February 14, 2023. The bridge is located on the Potomac River, at mile 43.3, between Charles County, MD and King George County, VA. The segment of the old bridge over waters that include the steel truss sections between Piers 13 and 16 (including the main span over the federal navigation channel) requires the use of explosives, and debris removal and hydrographic surveying equipment. Marine equipment, including barges, positioned in the Potomac River will be used to support the bridge demolition and debris removal operation. This operation also requires the use of a temporary commercial mooring buoy in the Potomac River south of the old bridge where the explosives barge will be kept. This operation will impede vessels requiring the use of the federal navigation channel. Hazards from the demolition and debris removal work include accidental discharge of explosives, dangerous projectiles, hanging ropes or cables, and falling objects or debris. The Captain of the Port, Maryland-National Capital Region (COTP) has determined that potential hazards associated with the demolition and removal of the old Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge would be a safety concern for anyone within or near the federal navigation channel.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within or near the federal navigation channel at the old Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 12:01 a.m. on February 1, 2023, to 11:59 p.m. on February 14, 2023. The safety zone would cover the following areas:

Area 1. All navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21′51.57″ N, 076°59′14.53″ W, thence south to 38°21′41.35″ N, 076°59′12.33″ W, thence west to 38°21′37.90″ N, 076°59′38.25″ W, thence north to 38°21′48.14″ N, 076°59′40.45″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA.

Area 2. All navigable waters of the Potomac River, within 1,500 feet of the explosives barge located in approximate position 38°21′21.47″ N, 076°59′45.40″ W.

The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled demolition and debris removal. Except for marine equipment and vessels operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors, no vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The term designated representative also includes an employee or contractor of Skanska-Corman-McLean, Joint Venture for the sole purposes of designating and establishing safe transit corridors, to permit passage into or through the safety zone, or to notify vessels and individuals that they have entered the safety zone and are required to leave.

The COTP will notify the public that the safety zone will be enforced by all appropriate means to the affected segments of the public, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification will also include, but are not limited to, Broadcast Notice to Mariners. Vessels or persons violating this rule are subject to the penalties set forth in 46 U.S.C. 70036 (previously codified in 33 U.S.C. 1232) and 46 U.S.C. 70052 (previously codified in 50 U.S.C. 192). The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location and time of year of the safety zone. The temporary safety zone is approximately 700 yards in width and 350 yards in length. This safety zone would impact a small designated area of the Potomac River for 14 total days, but we anticipate that there would be no vessels that are unable to conduct business. Excursion vessels and commercial fishing vessels are not impacted by this rulemaking. Excursion vessels do not operate in this area, and commercial fishing vessels are not impacted because of their draft. Some towing vessels may be impacted, but bridge project personnel have been conducting outreach throughout the project in order to coordinate with those vessels. This safety zone would be established outside the normal recreational boating season for this area, which occurs during the summer season. Additionally, vessel traffic, including recreational vessels, not required to use the navigation channel would be able to safely transit around the safety zone. Such vessels may be able to transit to the east or the west of the federal navigation channel, as similar vertical clearance and water depth exist under the next bridge span to the east and west. Moreover, the Coast Guard would issue Local Notices to Mariners and a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 14 total days that would prohibit entry within a portion of the Potomac River. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2022–0895 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0895 to read as follows:

§ 165.T05–0895 Safety Zone; Potomac River, Between Charles County, MD and King George County, VA.

(a) *Location.* The following areas are a safety zone: These coordinates are based on datum NAD 83.

(1) Area 1. All navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21′51.57″ N, 076°59′14.53″ W, thence south to 38°21′41.35″ N, 076°59′12.33″ W, thence west to 38°21′37.90″ N, 076°59′38.25″ W, thence north to 38°21′48.14″ N, 076°59′40.45″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA.

(2) Area 2. All navigable waters of the Potomac River within 1,500 feet of the explosives barge located in approximate position 38°21′21.47″ N, 076°59′45.40″ W.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the safety zone. The term also includes an employee or contractor of Skanska-Corman-McLean, Joint Venture for the sole purposes of designating and establishing safe transit corridors, to permit passage into or through the safety zone, or to notify vessels and individuals that they have entered the safety zone and are required to leave.

Marine equipment means any vessel, barge or other equipment operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, except for marine equipment, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP, Skanska-Corman-McLean, Joint Venture, or the COTP's designated representative. If a vessel or person is notified by the COTP, Skanska-Corman-McLean, Joint Venture, or the COTP's designated representative that they have entered the safety zone without permission, they are required to immediately leave in a safe manner following the directions given.

(2) Mariners requesting to transit any of these safety zone areas must first contact the Skanska-Corman-McLean, Joint Venture designated representative, the on-site project manager by telephone number 785–953–1465 or on Marine Band Radio VHF–FM channels 13 and 16 from the pusher tug Miss Stacy. If permission is granted, mariners must proceed at their own risk and strictly observe any and all instructions provided by the COTP, Skanska-Corman-McLean, Joint Venture, or designated representative to the mariner regarding the conditions of entry to and exit from any area of the safety zone. The COTP or the COTP's representative can be contacted by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue marine information broadcasts on VHF–FM marine band radio announcing specific enforcement dates and times.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 12:01 a.m. on February 1, 2023, to 11:59 p.m. on February 14, 2023.

Dated: November 3, 2022.

David E. O'Connell,

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

[FR Doc. 2022–24369 Filed 11–7–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0898]

RIN 1625–AA00

Safety Zone; Fireworks Display, Columbia River, Richland, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for all navigable waters within a 600-foot radius of a fireworks display on the Columbia River for the City of Richland Christmas Fireworks display in Richland, WA. This action is necessary to provide for the safety of life on these navigable waters during a fireworks display on December 2, 2022 and December 3, 2022. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 23, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0898 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Carlie Gilligan, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, email *D13-SMB-MSUPortlandWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Columbia River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On September 20, 2022, the City of Richland, WA notified the Coast Guard that it will be conducting a fireworks display from 8 to 8:30 p.m. on December 2, 2022 and December 3, 2022. The fireworks are to be launched from a pier located on the Columbia River near Howard Amon Park Waterfront, 80 Lee Boulevard, Richland, WA 99352 at approximate location 46°16′29″ N; 119°16′10″ W. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within a 600-foot radius of the launch site.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 600-foot radius of the fireworks launch site before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 7:30 to 9 p.m. on December 2, 2022 and December 3, 2022. The safety zone would cover all navigable waters within 600-feet of the pier located on the Columbia River near Howard Amon Park Waterfront on 80 Lee Boulevard, Richland, WA 99352, at approximate location 46°16′29″ N; 119°16′10″ W. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 8 to 8:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the Columbia River for less than 2 hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 2 hours that would prohibit entry within 600 feet of a fireworks launch site. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2022–0898 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0898 to read as follows:

§ 165.T13–0898 Safety Zone; Fireworks Display, Columbia River, Richland, WA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Columbia River, surface to bottom, 600 feet from the fireworks display site at approximately 46°16′29″ N; 119°16′10″ W. These coordinates are based on the pier located on the Columbia River near Howard Amon Park Waterfront, 80 Lee Boulevard, Richland, WA 99352.

(b) *Definitions.* As used in this section—

Designated representative means a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to a unit under the operational control of the U.S. Coast Guard Sector Columbia River and designated by or assisting the Captain of the Port Columbia River (COTP) in the enforcement of the regulations in this section.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7:30 through 9 p.m. on December 2, 2022 and from 7:30 through 9 p.m. on December 3, 2022.

Dated: November 1, 2022.

M. Scott Jackson,

Captain, U.S. Coast Guard, Captain of the Port Columbia River.

[FR Doc. 2022–24366 Filed 11–7–22; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register

Vol. 87, No. 215

Tuesday, November 8, 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

Forest Service

Notice of Proposed New Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of proposed new fee sites.

SUMMARY: The Sequoia National Forest is proposing to charge new fees at several recreation sites listed in **SUPPLEMENTARY INFORMATION** of this notice. Funds from fees would be used for operation, maintenance, and improvements of these recreation sites. An analysis of nearby developed recreation sites with similar amenities shows the proposed fees are reasonable and typical of similar sites in the area.

DATES: If approved, the new fee would be implemented no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Sequoia National Forest, 1839 S Newcomb, Porterville, California 93257.

FOR FURTHER INFORMATION CONTACT: Karen Miller, Public Services Staff Officer, 559–784–1500 or *karen.miller@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six-month advance notice in the **Federal Register** whenever new recreation fee areas are established. The fees are only proposed at this time and will be determined upon further analysis and public comment. Reasonable fees, paid by users of these sites, will help ensure that the Forest can continue maintaining and improving recreation sites like this for future generations.

As part of this proposal, Troy Meadow Group Campground is proposed at $90 per night. In addition, this proposal would implement a new fee at Bonita Cabin, for $90 per night.

New fees would provide increased visitor opportunities, as well as increased staffing to address operations and maintenance needs and enhance customer service. Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation. Advanced reservations for campgrounds and cabins will be available through *www.recreation.gov* or by calling 877–444–6777. The reservation service charges an $8.00 fee for reservations.

Dated: Novermber 3, 2022.

Jacqueline Emanuel,

Associate Deputy Chief, National Forest System.

[FR Doc. 2022–24363 Filed 11–7–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest; Alaska; Mendenhall Glacier Visitor Facility Improvements Project

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of intent to prepare a supplemental draft environmental impact statement.

SUMMARY: The Tongass National Forest, Alaska, intends to prepare a supplemental draft environmental impact statement (SDEIS) for the Mendenhall Glacier Visitor Facility Improvements Project. The notice of availability for the draft EIS was published on March 4, 2022 and amended on April 15, 2022. Public comments on the draft EIS requested analysis of additional alternatives, primarily related to the siting of a proposed Welcome Center and parking areas at the Mendenhall Glacier Recreation Area (MGRA) in Juneau, Alaska. The SDEIS will include three new action alternatives. Although not required, this notice of intent provides for public awareness of the forthcoming SDEIS.

DATES: The Forest Service is not inviting comments at this time. The SDEIS is expected to be available for public review and comment in the first quarter of 2023, and the final EIS is expected to be issued in the second quarter of 2023. The comment period for the SDEIS will be for 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

ADDRESSES: Tongass National Forest, 648 Mission Street, Suite No. 110, Ketchikan, AK 99901.

FOR FURTHER INFORMATION CONTACT: Monique Nelson, project manager, by phone at 1–907–209–4090 or by email at *monique.nelson@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the project is to update infrastructure and create recreation opportunities at the MGRA that can accommodate projected future visitor use while protecting the unique characteristics and outstanding beauty of the area. The project is needed to continue to provide quality opportunities for all visitors to enjoy the Recreation Area, to provide new recreation and interpretation experiences that emphasize the area's outstanding scenery and wildlife resources even as the glacier recedes out of view of the existing Visitor Center, to meet the demand of the visitor industry and support the economy of Southeast Alaska, and to protect the area from environmental impacts associated with increased visitation.

Proposed Action

The proposed action was described in the December 16, 2020 notice of intent and as alternative 2 in the draft EIS. The proposed action includes expansion of the two main parking areas nearest the existing Visitor Center, requiring fill of Zigzag pond; reconfiguration and paving of the commercial bus parking lot and addition of a maintenance building; replacement of a covered outdoor pavilion and parking area shelter with a new 14,000 square-foot Welcome Center, outdoor plaza with amphitheater, interpretive and wayfinding signs, and waiting shelters; renovations to the historic Visitor Center; improvements to the existing Steep Creek, Nugget Falls, and Photo

Point Trails; installation of three new paved trailheads along the Glacier Spur Road; creation of a new 2.2 mile paved Lakeshore Trail along the south shore of Mendenhall Lake from the Welcome Center Complex to the Mendenhall Campground, with a bridge across the Mendenhall River; creation of a new day use area at the Mendenhall Campground; construction of up to five new public use rental cabins at the Mendenhall Campground; realignment and restoration of about 1,500 feet of Steep Creek and replacement of perched culverts with a bridge at the Glacier Spur Road; addition of multi-use trails in the Dredge Lakes and West Glacier areas; construction of three boat docks and support facilities and addition of ferry service with 49-passenger motorized boats from the Welcome Center area to the proposed Remote Glacier Visitor Area; creation of a Remote Glacier Visitor Area with seasonal structures, restroom facilities, and trails; increases to visitor capacity and commercial use management allocations to accommodate 30-year use projections; and changes to recreation area unit boundries and recreation opportunity spectrum designations.

Preliminary Alternatives

The draft EIS analyzed the no action alternative, proposed action, and two additional action alternatives. Alternative 1 is the no action alternative, and alternative 2 is the proposed action. Alternative 3 differs from the proposed action in that the expanded parking areas do not require filling Zigzag pond; Welcome Center outdoor plazas are smaller; Lakeshore Trail is routed inland before crossing Mendenhall River to the campground; configurations for the Steep Creek Trail and the crossing at Glacier Spur Road are different; configurations for docks at the Welcome Center and West Glacier areas are different and the Remote Glacier Visitor Area requires only a landing beach; 35-passenger electric motorized boats with drop-bow would be used for ferry service; and changes to visitor capacity and commercial use management allocations would accommodate 20-year projections.

Alternative 4 differs from the proposed action in that the expanded parking areas do not require filling Zigzag pond; Welcome Center outdoor plaza area is smaller, with no lower plaza or amphitheater; Lakeshore Trail is 1-mile long and does not include a bridge to Mendenhall Campground; configurations for the Steep Creek Trail and the crossing at Glacier Spur Road are different; there are no boat docks, ferry service, or Remote Glacier Visitor Area; and changes to visitor capacity and commercial use management allocations would accommodate 15-year projections. All three action alterntives included the same proposed design and location for the proposed Welcome Center.

The SDEIS will include three additional action alternatives. Alternative 5 includes a revised design and slightly modified location for the Welcome Center, still near the location of the existing pavilion near the lakeshore. Alternative 5 also refines many of the other proposals included in the proposed Action, including refined parking lot configurations; refined Lakeshore Trail alignment; a new proposal for parking expansion at the Skater's Cabin area rather than within the Mendenhall Campground; refinement of the proposal for the Glacier Spur Road crossing of Steep Creek using a bottomless arch for wildlife crossing only; and allowance of 49-passenger electric motorized boats for ferry service to a modified Remote Glacier Visitor Area.

Alternative 6 includes a Welcome Center set in the rocks near the historic Visitor Center and away from the Lakeshore; remote bus drop off with electric shuttle service to the Welcome Center; an alternative proposal for the Glacier Spur Road crossing of Steep Creek using a bottomless arch for wildlife crossing and a separate human underpass; no boat docks, ferry service, or Remote Glacier Visitor Area; and other refinements the same as Alternative 5.

Alternative 7 includes a Welcome Center and expanded bus parking located away from Mendenhall Lake at the commercial bus lot with electric shuttle service to the Visitor Center, and other refinements the same as Alternative 5.

Expected Impacts

The draft EIS disclosed that impacts were expected to be negligible, minor, or moderate for most resources. The analysis disclosed major effects to scenic resources from Alternatives 2 and 3, and permanent, adverse effects to essential fish habitat for all action alternatives. The SDEIS will add to the analysis of these issues for the additional action alternatives.

Lead and Cooperating Agencies

The Forest Service is the lead agency. The National Oceanic and Atomospheric Association, National Marine Fisheries Service is a cooperating agency.

Responsible Official

Tongass National Forest Supervisor.

Scoping Process

A notice of intent published on December 16, 2020 initated the scoping process for the Mendenhall Glacier Visitor Facility Improvements Project. In accordance with 40 CFR 1502.9(c)(4), no further scoping will be conducted for this SDEIS. The SDEIS will be available for public comment as required by 40 CFR 1503.1. The SDEIS will be announced for public review and comment in the **Federal Register** and in the Ketchikan Daily News.

Permits, Licenses or Other Authorizations Required

Prior to implementation of the project, the Forest Service will obtain all necessary permits or authorizations from other Federal and State agencies including the U.S. Army Corps of Engineers, National Marine Fisheries Service, State of Alaska Department of Environmental Conservation, Alaska Department of Fish and Game, State of Alaska Office of History and Archaeology, and Alaska Department of Transportation and Public Facilities.

Nature of Decision To Be Made

The Responsible Official will review the no action alternative, the proposed action, other action alternatives, and the environmental consequences of each alternative to make decisions that include: (1) whether to construct new or improve existing facilities at the MGRA; (2) whether to increase visitor capacity and commercial use of the MGRA or specific management units; (3) whether to approve additional forest orders associated with management of the MGRA; and (4) whether any mitigation measures or monitoring will be required as part of implementation.

Dated: November 3, 2022.

Sandra Watts,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2022–24328 Filed 11–7–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Idaho Resource Advisory Committee

AGENCY: Forest Service, Agriculture, (USDA).

ACTION: Notice of meetings.

SUMMARY: The Southwest Idaho Resource Advisory Committee (RAC)

will hold two public meetings according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/boise/workingtogether/advisorycommittees*

DATES: The meetings will be held on:

- December 5, 2022 beginning at 9 a.m., Mountain Standard Time, and
- December 16, 2022 beginning at 1 p.m., Mountain Standard Time

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meetings are open to the public and will be held at the The Payette National Forest Supervisor's Office, located at 500 North Mission Street, McCall, Idaho 83638. The public may also join virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Brian Harris, Southwest Idaho RAC Designated Federal Offical, by phone at 208–634–6945 or via email at *brian.d.harris@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Hear from Title II project proponants and discuss Title II proposals, and

2. Make funding recommendations on Title II projects.

The meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Brian Harris, RAC Designated Federal Official, 500 North Mission Street, McCall, ID 83638; by email to *brian.d.harris@usda.gov.*

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

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

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: November 2, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–24293 Filed 11–7–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Invitation for Nominations to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service (NASS), USDA.

ACTION: Solicitation of nominations to the Advisory Committee on Agriculture Statistics.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces an invitation from the Office of the Secretary of Agriculture for nominations to the Advisory Committee on Agriculture Statistics. On September 22, 2021, the Secretary of Agriculture renewed the Advisory Committee charter for a two-year term to expire on September 21, 2023. The purpose of the Committee is to advise the Secretary of Agriculture on the scope, timing, content, etc., of the periodic censuses and surveys of agriculture, other related surveys, and the types of information to obtain from respondents concerning agriculture. The Committee also prepares recommendations regarding the content of agricultural reports and presents the views and needs for data of major suppliers and users of agricultural statistics.

DATES: The nomination period for interested candidates will close 30 days after publication of this notice.

ADDRESSES: You may submit nominations by any of the following methods:

- *Email:* Scan the completed form and email to: *HQOA@nass.usda.gov.*
- *eFax:* 855–493–0445.
- *Mail:* Nominations should be mailed to Kevin Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 5041 South Building, Washington, DC 20250–2010.
- *Hand Delivery/Courier:* Hand deliver to: Kevin Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 5041 South Building, Washington, DC 20250–2010.

FOR FURTHER INFORMATION CONTACT: Kevin Barnes, Associate Administrator, National Agricultural Statistics Service, (202) 720–4333.

SUPPLEMENTARY INFORMATION: Each person nominated to serve on the committee is required to submit the following form: AD–755 (Advisory Committee Membership Background Information, OMB Number 0505–0001),

available on the internet at *https://www.usda.gov/sites/default/files/documents/ad-755.pdf.* This form may also be requested by telephone, fax, or email using the information above. Completed forms may be faxed to the number above, mailed, or completed and emailed directly from the internet site. For more information on the Advisory Committee on Agriculture Statistics, see the NASS website at *https://www.nass.usda.gov/About_NASS/Advisory_Committee_on_Agriculture_Statistics/index.php.* The Committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keeps NASS informed of emerging issues in the agriculture community that can affect agricultural statistics activities.

The Committee, appointed by the Secretary of Agriculture, consists of 22 members representing a broad range of disciplines and interests, including, but not limited to, producers, representatives of national farm organizations, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

Members serve staggered 2-year terms, with terms for half of the Committee members expiring in any given year. Nominations are being sought for 22 open Committee seats. Members can serve up to 3 terms for a total of 6 consecutive years. The Chairperson of the Committee shall be elected by members to serve a 1-year term.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership will include to the extent possible, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics programs of NASS, and such other matters as it may deem advisable, or which the Secretary of Agriculture; Under Secretary for Research, Education, and Economics; or the Administrator of NASS may request. The Committee will meet at least annually. All meetings are open to the public. Committee members are reimbursed for official travel expenses only.

Send questions, comments, and requests for additional information to the email address, fax number, or address listed above.

Signed at Washington, DC, October 24, 2022.

Kevin Barnes,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 2022–24318 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

National Agricultural Library

Notice of Intent To Seek Approval To Collect Information

AGENCY: National Agricultural Library, Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the National Agricultural Library's (NAL) intent to request renewal of an information collection to obtain an evaluation of user satisfaction with NAL internet sites.

DATES: Comments on this notice must be received by January 9, 2023 to be assured of consideration.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: Sandra.Ball@usda.gov.*
- *Mail/Hand Delivery/Courier:* National Agricultural Library, 10301 Baltimore Avenue, Beltsville, Maryland 20705–2351.

FOR FURTHER INFORMATION CONTACT: Sandra Ball at (301) 837–8883

SUPPLEMENTARY INFORMATION:

Title: ''Evaluation of User Satisfaction with NAL Internet Sites.''

OMB Number: 0518–0040.

Expiration Date: N/A.

Type of Request: Approval for renewed data collection.

Abstract: This is a request, made by NAL Office of the Director Office of the Associate Director of Information Services, that the OMB approve, under the Paperwork Reduction Act of 1995, a 3-year generic clearance for the NAL to conduct user satisfaction research around its internet sites. This effort is made according to Executive Order 12862, which directs federal agencies that provide significant services directly to the public to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.

The NAL internet sites are a vast collection of web pages. NAL web pages are visited by an average of 8.6 million people per month. All NAL Information Centers have an established web presence that provides information to their respective audiences.

Description of Surveys: The online surveys will be no more than 15 Semantic Differential Scale or multiple-choice questions, and no more than 4 open-ended response questions.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 minutes per survey.

Respondents: The agricultural community, USDA personnel and their cooperators, and public and private users or providers of agricultural information.

Estimated Number of Respondents: 1000 per year.

Estimated Total Annual Burden on Respondents: 8 hours.

Comments: The purpose of the research is to ensure that intended audiences find the information provided on the internet sites easy to access, clear, informative, and useful. Specifically, the research will examine whether the information is presented in an appropriate technological format and whether it meets the needs of users of these internet sites. The research will also provide a means by which to classify visitors to the NAL internet sites to better understand how to serve them. It is estimated that participants will require no more than 5 minutes to complete each survey. Actual time required will vary based on participant reading rate.

Sample questions may include the following:

Functionality	Please rate the accuracy of information on this site. Please rate the quality of information on this site. Please rate the freshness of content on this site. Please rate the usefulness of the information provided on this site. Please rate the convenience of the information on this site. Please rate the ability to accomplish what you wanted to on this site.

Look and Feel	Please rate the ease of reading this site. Please rate the clarity of site organization. Please rate the clean layout of this site.
Navigation	Please rate the degree to which the number of steps it took to get where you want is acceptable. Please rate the ability to find information you want on this site.

Comments should be sent to the address in the preamble.

Simon Y. Liu,

Acting Administrator, ARS.

[FR Doc. 2022–24320 Filed 11–7–22; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Cotton Ginning Survey. Revision to burden hours may be needed due to possible changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by January 9, 2023 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0220, by any of the following methods:

- *Email: omboffi cer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202)720–2707. Copies of this information collection and related instructions can be obtained without charge from Richard Hopper, NASS—OMB Clearance Officer, at (202)720–2206 or at *omboffi cer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Cotton Ginning Survey.

OMB Control Number: 0535–0220.

Expiration Date of Approval: April 30, 2023.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare and issue State and national estimates of crop and livestock production, prices, and disposition as well as economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture. The Cotton Ginning surveys provide cotton ginning statistics from August through May by State. Data collected consists of bales of cotton ginned to date, cotton to be ginned, lint cotton produced, cottonseed produced, cottonseed sold to oil mills, cottonseed used for other uses, number of gins by type, and bales produced by county of origin. The forecasting procedure involves calculating a weighted percent ginned to date as well as an allowance for cross-state movement and bale weight adjustments. Production by State allows adjustments for year-end State and county estimates. Total pounds of lint cotton produced, is used to derive an actual bale weight which increases the precision of production estimates.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, Title III of Public Law 115–435, codified in 44 U.S.C. ch. 35. CIPSEA supports NASS's pledge of confidentiality to all respondents and facilitates the agency's efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA.

Estimate of Burden: Public reporting burden for this collection of information is estimated to be between 10 to 15 minutes per respondent per survey.

Respondents: Active Cotton Gins.

Estimated Number of Respondents: 600.

Estimated Total Annual Burden on Respondents: 1,300 hours.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, October 18, 2022.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2022–24324 Filed 11–7–22; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

International Trade Administration

Amended Trade Mission Date and Application Deadline to the Clinical Waste Management Mission to Indonesia and Malaysia

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration (ITA), is organizing an Executive-Led Clinical Waste Management Mission to Indonesia and Malaysia on September 11–15, 2023. Clinical Waste Management Trade Mission to Indonesia and Malaysia—originally scheduled for March 6–10, 2023, is postponed to September 11–15, 2023. The application deadline is now June 30, 2023.

Background

Clinical Waste Management Mission

The International Trade Administration has determined that to allow for optimal execution of recruitment and event scheduling for the mission, the dates of the mission are postponed from March 6–10, 2023 to September 11–15, 2023. As a result of the shift of the event dates the application deadline is also revised to June 30, 2023. Applications may be accepted after that date if space remains and scheduling constraints permit. Interested U.S. companies and trade associations/organizations that have not already submitted an application are encouraged to do so. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis in accordance with the 87 FR 15374 (March 18, 2022). The applicants selected will be notified as soon as possible. The proposed schedule is updated as follows:

Proposed Timetable

Note: The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.

September 11 (Monday) Indonesia, Day 1.	Trade Mission Participants arrive in Jakarta.
September 12 (Tuesday) Indonesia, Day 2	A full-day in-person event in Jakarta. The morning will consist of a country briefing for delegation and a meeting with Indonesian government agencies/ministries. The afternoon will include a networking lunch and/or one-on-one sessions with U.S. companies, relevant Indonesian stakeholders, and potential local partners. Evening reception at the Ambassador's or Deputy Chief of Mission (DCM) Residence or the hotel.
September 13 (Wednesday) Indonesia—Day 3/Malaysia—Day 1	Depart from Indonesia. Travel to Kuala Lumpur, Malaysia. Country briefing for delegation in Malaysia.
September 14 (Thursday) Malaysia—Day 2	A full-day in-person event in Kuala Lumpur. Meeting with Malaysian government agencies/ministries. One-on-one sessions with relevant Malaysian stakeholders and potential local partners. Evening reception at the Ambassador's or Deputy Chief of Mission (DCM) Residence or the hotel.
September 15 (Friday) Malaysia—Day 3.	Depart from Malaysia.

Contact

Tricia McLain, Global Healthcare Team, U.S. Commercial Service, Newark, Ph: +1 973–264–9646, *Tricia.McLain@trade.gov.*

Evelina Scott, I&A Office of Energy and Environmental Industries, U.S. Department of Commerce | International Trade Administration, Ph: +1–202–603–4765, *evelina.scott@trade.gov.*

Indonesia

Eric Hsu, Senior Commercial Officer, Jakarta, Indonesia, Ph: +62 (21) 5083 1000, *Eric.Hsu@trade.gov.*

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Malaysia

Francis Peters, Senior Commercial Officer, Kuala Lumpur, Malaysia, Ph: +60–3–2168–4869, *Francis.Peters@trade.gov.*

Krista Barry, Vietnam and Malaysia Desk Officer, Global Markets Asia, Washington, DC, Ph: 202–389–2298, *Krista.Barry@trade.gov.*

Siau Wei Pung, Senior Commercial Specialist (Environmental Technology), Ph: +60–3–2168–5050 Ext: 5139, *SiauWei.Pung@trade.gov.*

Bethany Tien, Commercial Specialist (Healthcare), Ph: +60–3–2168–5050 Ext: 4825, *Bethany.Tien@trade.gov.*

Gemal Brangman,

Director, ITA Events Management Task Force.

[FR Doc. 2022–24313 Filed 11–7–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–147, A–552–834, A–533–910]

Paper File Folders From the People's Republic of China, India, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Applicable November 1, 2022.

FOR FURTHER INFORMATION CONTACT: Janaé Martin (the People's Republic of China (China)); Jinny Ahn (the Socialist Republic of Vietnam (Vietnam)); Eric Hawkins or Sun Cho (India); AD/CVD Operations, Offices V and VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0238, (202) 482–0339, (202) 482–1988, or (202) 482–6458, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On October 12, 2022, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of paper file folders from China, Vietnam, and India, filed in proper form on behalf of the Coalition of Domestic Folder Manufacturers (the petitioner),[1] the members of which are domestic producers of paper file folders.[2] These AD petitions were accompanied by a countervailing duty (CVD) petition concerning imports of paper file folders from India.[3]

On October 17, 25, and 26, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.[4] The petitioner filed timely responses to the supplemental questionnaires on October 21, 26, and 27, 2022.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of paper file folders from China, Vietnam, and India are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the paper file folder industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in sections 771(9)(F) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigations.[6]

Periods of Investigation

Because the Petitions were filed on October 12, 2022, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the India AD investigation is October 1, 2021, through September 30, 2022. Because China and Vietnam are non-market economy (NME) countries, pursuant to section 351.204(b)(1), the POI for the China and Vietnam AD investigations is April 1, 2022, through September 30, 2022.

Scope of the Investigations

The product covered by these investigations is paper file folders from China, Vietnam, and India. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On October 17 and 25, 2022, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[7] On October 21 and 27, 2022, the petitioner revised the scope.[8] The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[9] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[10] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on November 21, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 1, 2022, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[11] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of paper file folders to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) or costs of production (COP) accurately, as

[1] The members of the Coalition of Domestic Folder Manufacturers are: Smead Manufacturing Company, Inc. and TOPS Products LLC.

[2] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam,'' dated October 12, 2022 (Petitions).

[3] *Id.*

[4] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Supplemental Questions,'' dated October 17, 2022 (General Issues Supplemental Questionnaire); *see also* Country-Specific Supplemental Questionnaires: China Supplemental, Vietnam Supplemental, and India AD Supplemental, dated October 17, 2022; Memorandum, ''Phone Call with Counsel to the Petitioner,'' dated October 25, 2022 (General Issues Memorandum); and Country-Specific Memoranda, Identifying Country-Specific Issues, dated October 25 and 26, 2022.

[5] *See* Petitioner's Country-Specific Supplemental Responses, dated October 21, 2022; *see also* Petitioner's Letter, ''Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Questionnaire,'' dated October 21, 2022 (First General Issues Supplement); Petitioner's Country-Specific First Supplemental Responses, dated October 21, 2022; Petitioner's Country-Specific Second Supplemental Responses, dated October 26, 2022; Petitioner's Letter, ''Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Question #20,'' dated October 26, 2022 (October 26 Injury Supplement); and Petitioner's Letter, ''Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Second Volume I Supplemental Questions,'' dated October 27, 2022 (Second General Issues Supplement).

[6] *See infra,* section on ''Determination of Industry Support for the Petitions.''

[7] *See* First General Issues Supplement at 3–4; *see also* General Issues Memorandum at 1–2.

[8] *See* First General Issues Supplement at Exhibit I–S2; *see also* Second General Issues Supplement at Exhibit I–2S1.

[9] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[10] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe paper file folders, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on November 21, 2022, which is 20 calendar days from the signature date of this notice.[12] Any rebuttal comments must be filed by 5:00 p.m. ET on December 1, 2022. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[15] Based on our analysis of the information submitted on the record, we have determined that paper file folders, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided the 2021 net sales values of the domestic like product for U.S. producers that support the Petitions, and compared this to the estimated total sales values of the domestic like product for the entire domestic industry.[17] Because total industry production data for the domestic like product for 2021 are not reasonably available to the petitioner, and the petitioner has established that sales values and shipments are a reasonable proxy for production data,[18] we have relied on the data provided by the petitioner for purposes of measuring industry support.[19]

Our review of the data provided in the Petitions, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[20] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[21] Second, the domestic producers (or workers) have met the statutory criteria for industry support

[12] *See* 19 CFR 351.303(b)(1).

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[15] *See* Petitions at Volume I (pages 11, 13–18, and Exhibits I–18 through I–26); *see also* First General Issues Supplement at 13–17.

[16] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* AD Investigation Initiation Checklists, ''Paper File Folders from the People's Republic of China,'' ''Paper File Folders from India,'' and ''Paper File Folders from the Socialist Republic of Vietnam,'' dated concurrently with this notice (Country-Specific AD Initiation Checklists), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam).

[17] *See* Petitions at Volume I (pages 4–5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8–13 and Exhibits I–S1, I–S4 and I–S5; and Second General Issues Supplement at 4–5 and Exhibit I–2S2.

[18] *See* Petitions at Volume I (page 5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8 and Exhibits I–S1 and I–S4; and Second General Issues Supplement at 4–5 and Exhibit I–2S2.

[19] *See* Petitions at Volume I (pages 4–5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8–13 and Exhibits I–S1, I–S4 and I–S5; and Second General Issues Supplement at 4–5 and Exhibit I–2S2.

[20] *See* Petitions at Volume I (pages 4–5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8–13 and Exhibits I–S1, I–S4 and I–S5; and Second General Issues Supplement at 4–5 and Exhibit I–2S2. For further discussion, *see* Country-Specific AD Initiation Checklists at Attachment II.

[21] *See* Country-Specific AD Initiation Checklists at Attachment II; *see also* section 732(c)(4)(D) of the Act.

under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[22] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[23] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[24]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[25]

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; and adverse impact on the domestic industry's performance and development and production efforts.[26] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[27]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of paper file folders from China, Vietnam, and India. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For China, India, and Vietnam, the petitioner based export price (EP) on pricing information for sales of, or offers for sale of, paper file folders produced in and exported from each country. The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.[28]

Normal Value[29]

For India, the petitioner stated it was unable to obtain home-market or third-country prices for paper file folders to use as a basis for NV.[30] Therefore, for India, the petitioner calculated NV based on CV.[31] For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value.''

Commerce considers China and Vietnam to be NME countries.[32] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China and Vietnam as NME countries for purposes of the initiation of these investigations. Accordingly, NV in China and Vietnam is appropriately based on FOPs valued in surrogate market economy countries, in accordance with section 773(c) of the Act.

The petitioner claims that Malaysia is an appropriate surrogate country for China because Malaysia is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of identical merchandise.[33] The petitioner provided publicly available information from Malaysia to value all FOPs.[34] Based on the information provided by the petitioner, we determine that it is appropriate to use Malaysia as a surrogate country for initiation purposes.

The petitioner claims that Indonesia is an appropriate surrogate country for Vietnam because Indonesia is a market economy country that is at a level of economic development comparable to that of Vietnam and is a significant producer of identical merchandise.[35] The petitioner provided publicly available information from Indonesia to value all FOPs.[36] Based on the information provided by the petitioner, we determine that it is appropriate to use Indonesia as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determinations.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese and Vietnamese producers/exporters was not reasonably available, the petitioner used product-specific consumption rates from a U.S. producer of paper file folders as a surrogate to value Chinese and Vietnamese manufacturers' FOPs.[37] Additionally, the petitioner calculated factory overhead; selling, general and administrative (SG&A) expenses; and profit based on the experience of a Malaysian and Indonesian producer of identical merchandise for China and Vietnam, respectively.[38]

Normal Value Based on Constructed Value

As noted above for India, the petitioner stated it was unable to obtain home-market or third-country prices for

[22] *See* Country-Specific AD Initiation Checklists at Attachment II.

[23] *Id.*

[24] *Id.*

[25] *See* Petitions at Volume I (page 22 and Exhibit I–31).

[26] *See* Petitions at Volume I (pages 19–38 and Exhibits I–14 and I–27 through I–34); *see also* First General Issues Supplement at 17–21 and Exhibit I–S6; and the October 26 Injury Supplement at 1–2.

[27] *See* Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam (Attachment III).

[28] *See* Country-Specific AD Initiation Checklists.

[29] In accordance with section 773(b)(2) of the Act, for the India investigation, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[30] *See* India AD Initiation Checklist.

[31] *Id.*

[32] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying Decision Memorandum (*China's Status as a Non-Market Economy*), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018); *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016–2017,* 84 FR 18007 (April 29, 2019).

[33] *See* China AD Checklist.

[34] *Id.*

[35] *See* Vietnam AD Checklist.

[36] *Id.*

[37] *See* Volume II of the Petitions at 8–9; *see also* Volume IV of the Petitions at 9–10; China Supplemental Response at 3; and Vietnam Supplemental Response at 2.

[38] *See* Volume II of the Petitions at 9 and at Exhibits II–3 and II–17; *see also* Volume IV of the Petitions at 11 and Exhibits IV–3 and IV–16.

paper file folders to use as a basis for NV. Therefore, for India, the petitioner calculated NV based on CV.[39]

Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, SG&A expenses, financial expenses, and profit.[40] For India, in calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of paper file folders, valued using publicly available information applicable to India.[41] In calculating SG&A expenses, financial expenses, and profit ratios (where applicable), the petitioner relied on the fiscal year 2021–2022 financial statements of a producer of identical merchandise in India.[42]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of paper file folders from China, India, and Vietnam, are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for paper file folders for each of the countries covered by this initiation are as follows: (1) China—62.61 to 192.70 percent; (2) India—86.01 to 225.24 percent; and (3) Vietnam—180.61 to 233.93 percent.[43]

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of paper file folders from China, Vietnam, and India are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

China and Vietnam

In the Petitions, the petitioner named 39 companies in China and nine companies in Vietnam as producers and/or exporters of paper file folders.[44] In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and/or exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are 39 Chinese and nine Vietnamese producers and/or exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

In addition, Commerce will post the Q&V questionnaires along with filing instructions on Commerce's website at *https://enforcement.trade.gov/questionnaires/questionnaires-ad.html.* Producers/exporters of paper file folders from China and Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese and Vietnamese producers/exporters no later than 5:00 p.m. ET on November 15, 2022, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://enforcement.trade.gov/apo.* Commerce intends to make its decisions regarding respondent selection within 20 days of publication of this notice.

India

The petitioner named 20 companies in India as producers/exporters of paper file folders.[45] Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents in India based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheading listed in the scope of the investigations in the appendix to this notice.

On October 31, 2022, Commerce released CBP data on U.S. imports of paper file folders from India under APO to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days after the publication date of the notice of initiation of these investigations.[46] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://enforcement.trade.gov/apo.*

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by Commerce's electronic records system, ACCESS, no later than 5:00 p.m. ET on the dates noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application.[47] The specific requirements

[39] *See* India AD Initiation Checklist.

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *See* Country-Specific AD Initiation Checklists for details of calculations.

[44] *See* Petitions at Volume I (page 12 and Exhibit I–16); *see also* First General Issues Supplement at 1–3.

[45] *See* Petitions at Volume I (page 12 and Exhibit I–16).

[46] *See* Memoranda, ''Petition for the Imposition of Antidumping Duties on Imports of Paper File Folders from India: Release of Customs Data from U.S. Customs and Border Protection,'' dated October 31, 2022; and ''Countervailing Duty Petition on Imports of Paper File Folders from India: Release of U.S. Customs and Border Protection Data,'' dated October 31, 2022.

[47] *See* Enforcement and Compliance's Policy Bulletin 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries,'' (April 5, 2005) (Policy Bulletin 05.1),

Continued

for submitting a separate rate application in an NME investigation are outlined in detail in the application itself, which is available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate rate application will be due 30 days after publication of this initiation notice.[48] Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China and Vietnam submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines in order to receive consideration for separate rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the {weighted average} of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[49]

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of China, Vietnam, and India via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of paper file folders from China, India, and/or Vietnam, are materially injuring, or threatening material injury to, a U.S. industry.[50] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[51] Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[52] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[53] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[54] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits. Parties should review Commerce's regulations concerning the extension of time limits and the *Time*

available at *https://enforcement.trade.gov/policy/bull05-1.pdf.*

[48] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[49] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[50] *See* section 733(a) of the Act.

[51] *Id.*

[52] *See* 19 CFR 351.301(b).

[53] *See* 19 CFR 351.301(b)(2).

[54] *See* 19 CFR 351.302.

Limits Final Rule prior to submitting factual information in these investigations.[55]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[56] Parties must use the certification formats provided in 19 CFR 351.303(g).[57] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letter of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[58]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The products within the scope of these investigations are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term ''primarily'' as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

Excluded from the scope are:

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;
- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (*e.g.,* boxes or cartons);
- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;
- expanding folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms) that is covered entirely with fabric, leather, and/or faux leather;
- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (*i.e.,* raised relief patterns that are recessed on the opposite side), and/or debossing (*i.e.,* recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors other than the color of the base paper, and other than the printing of numbers, letters, words, or logos, each of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;
- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and
- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

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[55] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[56] *See* section 782(b) of the Act.

[57] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[58] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–911]

Paper File Folders From India: Initiation of Countervailing Duty Investigation

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

DATES: Applicable November 1, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3936.

SUPPLEMENTARY INFORMATION:

The Petition

On October 12, 2022, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of paper file folders from India filed in proper form on behalf of the Coalition of Domestic Folder Manufacturers (the petitioner),[1] the members of which are domestic producers of paper file folders.[2] The Petition was accompanied by antidumping duty (AD) petitions concerning imports of paper file folders from the People's Republic of China, India, and the Socialist Republic of Vietnam.[3]

On October 17 and 25, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petition.[4] On October 21, 26, and

[1] The members of the Coalition of Domestic Folder Manufacturers are: Smead Manufacturing Company, Inc. and TOPS Products LLC.

[2] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam,'' dated October 12, 2022 (Petition).

[3] *Id.*

[4] *See* Commerce's Letters, ''Petition for the Imposition of Countervailing Duties on Imports of Paper File Folders from India: Supplemental Questions,'' dated October 17, 2022; and ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Supplemental Questions,'' dated October 17, 2022 (General Issues Supplemental Questionnaire); *see also* Memorandum, ''Phone Call with Counsel to the Petitioner,'' dated October 25, 2022 (General Issues Memorandum).

27, 2022, the petitioner filed timely responses to these requests for additional information.[5]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India (GOI) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of paper file folders in India and that such imports are materially injuring, or threatening material injury to, the domestic industry producing in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(F) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.[6]

Period of Investigation

Because the Petition was filed on October 12, 2022, the period of investigation (POI) is January 1, 2021, through December 31, 2021.[7]

Scope of the Investigation

The product covered by this investigation is paper file folders from India. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

On October 17 and 25, 2022, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[8] On October 21 and 27, 2022, the petitioner revised the scope.[9] The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[10] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.[11] To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on November 21, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 1, 2022, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information that the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must also be filed on the record of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[12] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI of the receipt of the Petition and provided it an opportunity for consultations with respect to the Petition.[13]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[14] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is

[5] *See* Petitioner's Letters, ''Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Questionnaire,'' dated October 21, 2022 (First General Issues Supplement); ''Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Question #20,'' dated October 26, 2022 (October 26 Injury Supplement); ''Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Second Volume I Supplemental Questions,'' dated October 27, 2022 (Second General Issues Supplement); and Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume V Supplemental Questionnaire,'' dated October 21, 2022.

[6] *See* ''Determination of Industry Support for the Petition'' section, *infra.*

[7] *See* 19 CFR 351.204(b)(2).

[8] *See* General Issues Supplemental Questionnaire at 3–4; *see also* General Issues Memorandum at 1–2.

[9] *See* First General Issues Supplement at Exhibit I–S2; *see also* Second General Issues Supplement at Exhibit I–2S1.

[10] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[11] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[12] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[13] *See* Commerce's Letter, ''Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated October 13, 2022.

[14] *See* section 771(10) of the Act.

subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[15]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[16] Based on our analysis of the information submitted on the record, we have determined that paper file folders, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[17]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided the 2021 net sales values of the domestic like product for U.S. producers that support the Petition, and compared this to the estimated total sales values of the domestic like product for the entire domestic industry.[18] Because total industry production data for the domestic like product for 2021 are not reasonably available to the petitioner, and the petitioner has established that sales values and shipments are a reasonable proxy for production data,[19] we have relied on data provided by the petitioner for purposes of measuring industry support.[20]

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[21] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[22] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[23] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[24] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[25]

Injury Test

Because India is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefiting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[26]

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; and adverse impact on the domestic industry's performance and development and production efforts.[27] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[28]

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of paper file folders from India benefit from countervailable subsidies conferred by the GOI. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 12 of the 14 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the India CVD Initiation

[15] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[16] *See* Petition at Volume I (pages 11, 13–18, and Exhibits I–18 through I–26); *see also* First General Issues Supplement at 13–17.

[17] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* CVD Investigation Initiation Checklist, ''Paper File Folders from India,'' dated concurrently with this notice (India CVD Initiation Checklist), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam).

[18] *See* Petition at Volume I (pages 4–5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8–13, and Exhibits I–S1, I–S4, and I–S5; and Second General Issues Supplement at 4–5 and Exhibit I–2S2.

[19] *See* Petition at Volume I (page 5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8 and Exhibits I–S1 and I–S4; and Second General Issues Supplement at 4–5 and Exhibit I–2S2.

[20] *See* Petition at Volume I (pages 4–5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8–13, and Exhibits I–S1, I–S4, and I–S5; and Second General Issues Supplement at 4–5 and Exhibit I–2S2.

[21] *See* Petition at Volume I (pages 4–5 and Exhibits I–1, I–2, I–33, and I–35); *see also* First General Issues Supplement at 1, 8–13, and Exhibits I–S1, I–S4, and I–S5; and Second General Issues Supplement at 4–5 and Exhibit I–2S2. For further discussion, *see* the India CVD Initiation Checklist at Attachment II.

[22] *See* India CVD Initiation Checklist at Attachment II; *see also* section 702(c)(4)(D) of the Act.

[23] *See* India CVD Initiation Checklist at Attachment II.

[24] *Id.*

[25] *Id.*

[26] *See* Petition at Volume I (page 22 and Exhibit I–31).

[27] *See* Petition at Volume I (pages 19–38 and Exhibits I–14 and I–27 through I–34); *see also* First General Issues Supplement at 17–21 and Exhibit I–S6; and the October 26 Injury Supplement at 1–2.

[28] *See* India CVD Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam).

Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner named eleven companies in India as producers and/or exporters of paper file folders.[29] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation.

In the event Commerce determines that the number of Indian producers or exporters is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of paper file folders from India during the POI under the appropriate Harmonized Tariff Schedule of the United States subheading listed in the ''Scope of the Investigation,'' in the appendix.

On October 31, 2022, Commerce released CBP data for U.S. imports of paper file folders from India under administrative protective order (APO) to all parties with access to information protected by APO, and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.[30] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at *https://enforcement.trade.gov/apo.* Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOI via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of paper file folders from India are materially injuring, or threatening material injury to, a U.S. industry.[31] A negative ITC determination will result in the investigation being terminated.[32] Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[33] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[34] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[35] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in this investigation.[36]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[37] Parties must use the certification formats provided in 19 CFR 351.303(g).[38] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letters of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[39]

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

[29] *See* Petition at Volume I (Exhibit I–17).

[30] *See* Memorandum, ''Countervailing Duty Petition on Imports of Paper File Folders from India: Release of U.S. Customs and Border Protection Data,'' dated October 31, 2022.

[31] *See* section 703(a)(1) of the Act.

[32] *Id.*

[33] *See* 19 CFR 351.301(b).

[34] *See* 19 CFR 351.301(b)(2).

[35] *See* 19 CFR 351.302.

[36] *See* 19 CFR 301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[37] *See* section 782(b) of the Act.

[38] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[39] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Dated: November 1, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The products within the scope of this investigation are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term ''primarily'' as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

Excluded from the scope are:

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;
- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (*e.g.,* boxes or cartons);
- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;
- expanding folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms) that is covered entirely with fabric, leather, and/or faux leather;
- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (*i.e.,* raised relief patterns that are recessed on the opposite side), and/or debossing (*i.e.,* recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors other than the color of the base paper, and other than the printing of numbers, letters, words, or logos, each of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;
- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and
- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[FR Doc. 2022–24315 Filed 11–7–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC519]

Marine Mammals; File No. 27033

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Underdogs Films, Ltd., 4th Floor Embassy House, Queen's Avenue, Bristol, BS8 1SB, United Kingdom (Tom Stephens, Principal Investigator), has applied in due form for a permit to conduct commercial or educational photography on Northern elephant seals (*Mirounga angustirostris*).

DATES: Written, telefaxed, or email comments must be received on or before December 8, 2022.

ADDRESSES: These documents are available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 27033 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore and Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film Northern elephant seals exhibiting wild behavior during their breeding season at the Año Nuevo State Reserve beaches. Filmmakers would conduct ground-based filming via tripod, gimbal, and remote vehicle, as well as aerial filming via vertical take-off and landing unmanned aircraft system. Up to 2,300 elephant seals, 115 harbor seals (*Phoca vitulina*), and 115 northern fur seals (*Callorhinus ursinus*) may be harassed during filming. Filming would occur for no more than 23 days in January and February of 2023. The permit would be valid until February 28, 2023.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 2, 2022.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–24294 Filed 11–7–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 221031–0228; RTID 0648–XR125]

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List Great Hammerhead Shark as a Threatened or Endangered Species

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

ACTION: Notice; 90-Day petition finding.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to list the great hammerhead shark (*Sphyrna mokarran*) as threatened or endangered under the

Endangered Species Act (ESA) and to designate critical habitat. We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

ADDRESSES: Copies of the petition and related materials are available from the NMFS website at *https://www.fisheries.noaa.gov/national/endangered-species-conservation/negative-90-day-findings.*

FOR FURTHER INFORMATION CONTACT: Maggie Miller, NMFS Office of Protected Resources, (301) 427–8457, *Margaret.h.miller@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2022, we received a petition from the Center for Biological Diversity (CBD) to list the great hammerhead shark as a threatened or endangered species under the ESA and to designate critical habitat concurrent with the listing. We have previously reviewed the status of the great hammerhead shark for listing under the ESA as a result of two petitions received in 2012 and 2013. We completed a comprehensive status review of the great hammerhead shark in response to these petitions, and based on the best scientific and commercial information available, including the status review report (Miller *et al.* 2014), we determined that the species was not comprised of distinct population segments (DPSs), was not currently in danger of extinction throughout all or a significant portion of its range, and was not likely to become so within the foreseeable future. Therefore, on June 11, 2014, we published a final determination, the 12-month finding, that the great hammerhead shark did not warrant ESA listing (79 FR 33509).

ESA Statutory, Regulatory, and Policy Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce makes a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When it is found that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review that encompasses all the best data available, as compared to the narrower scope of review at the 90-day stage, a ''may be warranted'' finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a species, which is defined to also include subspecies and, for any vertebrate species, any DPS that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, ''the Services'') policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722, February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following section 4(a)(1) factors: (1) the present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms to address identified threats; (5) or any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by the Services (50 CFR 424.14(h)(1)(i)) define ''substantial scientific or commercial information'' in the context of reviewing a petition to list, delist, or reclassify a species as credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted. Conclusions drawn in the petition without the support of credible scientific or commercial information will not be considered ''substantial information.'' In reaching the initial (90-day) finding on the petition, we will consider the information described in sections 50 CFR 424.14(c), (d), and (g) (if applicable) and may also consider information readily available at the time the determination is made (50 CFR 424.19(h)(ii)).

Our determination as to whether the petition provides substantial scientific or commercial information indicating that the petitioned action may be warranted will depend in part on the degree to which the petition includes the following types of information: (1) current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available; (2) identification of the factors under section 4(a)(1) of the ESA that may affect the species and where these factors are acting upon the species; (3) whether and to what extent any or all of the factors identified in section 4(a)(1) of the ESA, alone or in combination, may cause the species to be an endangered species or threatened species (*i.e.,* the species is currently in danger of extinction or is likely to become so within the foreseeable future), and, if so, how high in magnitude and how imminent the threats to the species and its habitat are; (4) adequacy of regulatory protections and effectiveness of conservation activities by States as well as other parties, that have been initiated or that are ongoing, that may protect the species or its habitat; and (5) a complete, balanced representation of the relevant facts, including information that may contradict claims in the petition (50 CFR 424.14(d)).

We may also consider information readily available at the time the determination is made (50 CFR 424.14(h)(1)(ii)). We are not required to consider any supporting materials cited by the petitioner if the petitioner does not provide electronic or hard copies, to the extent permitted by U.S. copyright law, or appropriate excerpts or quotations from those materials (*e.g.,* publications, maps, reports, letters from authorities) (50 CFR 424.14(c)(6)).

The ''substantial scientific or commercial information'' standard must be applied in light of any prior reviews or findings we have made on the listing status of the species that is the subject of the petition. Where we have already conducted a finding on, or review of, the listing status of that species (whether in response to a petition or on our own initiative), we will evaluate any petition received thereafter seeking to list, delist, or reclassify that species to

determine whether a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted despite the previous review or finding. Where the prior review resulted in a final agency action—such as a final listing determination, 90-day not-substantial finding, or 12-month not-warranted finding—a petition will generally not be considered to present substantial scientific and commercial information indicating that the petitioned action may be warranted unless the petition provides new information or analysis not previously considered (50 CFR 424.14(h)(1)(iii)).

At the 90-day finding stage, we do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioners' sources and characterizations of the information presented if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person conducting an impartial scientific review would conclude it supports the petitioners' assertions. In other words, conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone necessitates a negative 90-day finding if a reasonable person conducting an impartial scientific review would conclude that the unknown information itself suggests the species may be at risk of extinction presently or within the foreseeable future.

To make a 90-day finding on a petition to list a species, we first evaluate whether the petition presents substantial scientific or commercial information indicating the subject of the petition may constitute a ''species'' eligible for listing under the ESA. If so, we evaluate whether the information indicates that the species may face an extinction risk such that listing, delisting, or reclassification may be warranted; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate whether the petition presents any information on specific demographic factors pertinent to evaluating extinction risk for the species (*e.g.,* population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate whether the petition presents information suggesting potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1) of the ESA.

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information indicating that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by nongovernmental organizations, such as the International Union for Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone will not provide a sufficient rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do ''not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act'' because NatureServe assessments ''have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide'' (*https://explorer.natureserve.org/AboutTheData/DataTypes/ConservationStatusCategories*). Additionally, species classifications under IUCN and the ESA are not equivalent; data standards, criteria used to evaluate species, and treatment of uncertainty are also not necessarily the same. Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Analysis of Petition

We have reviewed the petition, the literature cited in the petition, and other literature and information readily available in our files. The petitioners mainly assert that the recent 2019 IUCN assessment of the great hammerhead shark (Rigby *et al.* 2019), which designated the global species as ''critically endangered,'' means that the species satisfies the listing criteria under the ESA.

As discussed above, we must evaluate any petition seeking to list a species in light of any prior reviews or findings we have already made on the species that is the subject of the petition (50 CFR 424.14(h)(1)(iii)). Because our previous review resulted in a final agency action finding that the great hammerhead shark was not in danger of extinction throughout all or a significant portion of its range, and was not likely to become so within the foreseeable future, we considered whether the petition provides new information or a new analysis not previously considered. Unless the petition provides credible new information, identifies errors, or provides a credible new analysis, the petition generally would not be considered to present substantial information indicating that the petitioned action may be warranted (50 CFR 424.14(h)(1)(iii)). Below, we address the main points made in the petition, including the information used by the 2019 IUCN assessment (Rigby *et al.* 2019), and discuss whether this information was considered in our status review report (Miller *et al.* 2014) and 12-month finding for the great hammerhead shark (79 FR 33509, June 11, 2014), or instead is credible new information.

Population Status and Trends

The petitioner discusses the 2019 IUCN assessment of the great hammerhead population (Rigby *et al.* 2019), stating that the assessment found a global population reduction of >80 percent over three generation lengths (71.1–74.4 years), with particularly steep declines in the Indian Ocean (median reduction of 99.3 percent over three generation lengths). There were three data sources that the IUCN assessment used to determine the overall global population reduction. Two of these data sources, the Indian Ocean data (Dudley and Simpfendorfer 2006) and the North Atlantic data (Jiao

et al. 2011) were both analyzed in our great hammerhead shark status review report (Miller *et al.* 2014) that preceded and provided the basis for the 2014 finding. As such, this is not new information that would indicate a change in the status of the species. The third data source in the IUCN assessment (J. Carlson unpublished data), which was not considered in our status review report, provided new and additional North Atlantic information that showed an *increase* in median population change of great hammerhead sharks over three generation lengths. As such, that data supported classification of the great hammerhead shark in the IUCN Red List category of Least Concern (see Rigby *et al.* 2019: Supplementary Information) and does not constitute new information that would indicate the petitioned action may be warranted. Additionally, NMFS is currently undertaking a stock assessment for the great hammerhead shark in U.S. Atlantic waters as part of the SouthEast Data, Assessment, and Review (SEDAR) cooperative process for hammerhead sharks. Based on the SEDAR Workshop Working Papers (publicly available at: *https://sedarweb.org/assessments/sedar-77*), a preliminary examination of trends in abundance from five data sources, including the ones in Rigby *et al.* (2019), indicates that since 1994 the population is increasing at about 2 percent per year.

The petition also noted steep declines of hammerheads in the Mediterranean Sea, referencing Ferretti *et al.* (2008); however, again, this study was considered in our status review report of the great hammerhead shark (Miller *et al.* 2014). Within the status review report, we noted that although Ferretti *et al.* (2008) has been referenced as a study that estimated a decline of >99.99 percent in *Sphyrna* spp. abundance and biomass, the authors acknowledge that they could only assess *S. zygaena,* or smooth hammerhead shark. Great hammerhead sharks are essentially rare in the Mediterranean Sea and are considered a transient species (Miller *et al.* 2014). As such, the information that the petition provided does not apply to the great hammerhead shark species.

In conclusion, information readily available in our files suggests the great hammerhead shark population is increasing in the U.S. Atlantic region, which provides important context for judging the accuracy and reliability of the information presented in the petition. Further, the petition does not provide any credible new information that was not already considered in our great hammerhead shark status review report (Miller *et al.* 2014) supporting the prior not warranted finding or otherwise offer substantial information that would suggest that the species' current population status and trends may warrant the petitioned action.

Information on Impacts and Threats to the Species

Next, we evaluated whether the information in the petition, viewed in context of information readily available in our files concerning the extent and severity of one or more of the ESA section 4(a)(1) factors, credibly suggests these impacts and threats may be posing a risk of extinction for the great hammerhead shark. The petition states that four of the five general causal factors in section 4(a)(1) of the ESA are adversely affecting the continued existence of the great hammerhead shark: (A) present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (D) inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. In the following sections, we use the information presented in the petition and in our files to determine whether the petitioned action may be warranted.

Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

First, the petition incorrectly identifies the great hammerhead shark as a ''benthopelagic'' species, not a coastal-pelagic and semi-oceanic species (79 FR 33509, June 11, 2014). The petition states that as a benthopelagic species, the great hammerhead shark occupies most of the water column and is vulnerable to human activities from the surface to the seafloor. The petition cites the reference of Thoburn *et al.* (2019) to support that statement; however, this reference is about tope sharks (*Galeorhinus galeaus*), not great hammerhead sharks. The petition also states that great hammerhead sharks are considered highly susceptible to anthropogenic pressures near coastlines and in offshore environments but references Leonetti *et al.* (2020), which also mentions tope sharks and is about sharks and rays in the Mediterranean. As mentioned above, great hammerhead sharks are rare or a transient species in the Mediterranean, and the petition contains no information that suggests that the great hammerhead shark is similar to the species analyzed in Leonetti *et al.* (2020) nor supports an inference that the great hammerhead shark specifically is ''highly susceptible'' to unspecified anthropogenic pressures near coastlines or in offshore environments of the Mediterranean or anywhere else. Therefore the petition statements are not supported by credible scientific or commercial information. Such unsupported conclusions are not considered ''substantial information'' under our regulations (50 CFR 424.14(h)(1)(i)).

The petition also states that climate change and coastal development are especially harmful to the great hammerhead shark given the species' dependence on tropical and sub-tropical coral reefs; however, as noted in our great hammerhead shark status review report (Miller *et al.* 2014), great hammerhead sharks do not show any dependence on coral reefs. The petition also did not provide any reference for that statement. The petition proceeds to suggest that global climate change, ocean warming, ocean acidification, habitat degradation and destruction associated with coastal and ocean development, and human-caused impacts on important coral reef habitats are putting the great hammerhead shark at a greater risk of extinction. However, the petition fails to provide any species-specific information on the impacts of these developments on the great hammerhead shark. The petition mentions that both ocean warming and ocean acidification are wreaking havoc on reef ecosystems worldwide and threatening coral reef habitats, including those that purportedly provide important habitat for great hammerhead sharks, but does not provide any references that discuss or identify the specific great hammerhead shark habitat that may be impacted. As mentioned in our great hammerhead shark status review report (Miller *et al.* 2014), the great hammerhead shark is a circumtropical species that lives in coastal-pelagic and semi-oceanic waters from latitudes of 40° N to 31° S. It occurs over continental shelves as well as adjacent deep waters, and while it may also be found in coral reefs and lagoons, there is no information presented in the petition that suggests, contrary to the prior status review report, that reef ecosystems worldwide are important habitats for the species.

The petition also states that ocean acidification threatens the great hammerhead shark directly but provides no references or scientific evidence that supports this statement. Rather, the petition cites Dixson *et al.* (2014), Rosa *et al.* (2017), Piestevos *et al.* (2015) and Dziergwa *et al.* (2019), which are studies that examine the effects of ocean acidification on different species of sharks, but not the great hammerhead

shark. Dixson *et al.* (2014) examined the smooth dogfish (*Mustelus canis*), Rosa *et al.* (2017) examined 10 benthic shark species, Piestevos *et al.* (2015) examined the temperate Port Jackson shark (*Heterodontus portusjacksoni*), and Dziergwa *et al.* (2019) examined a demersal shark species, Puffadder shyshark (*Haploblepharus edwardsii*). Clearly, none of these shark species (which are demersal, benthic, and temperate) share similar habitat conditions as the great hammerhead shark, a coastal-pelagic and semi-oceanic shark. Additionally, none of the referenced papers suggest the shark species discussed are biologically similar to the great hammerhead shark. The status review report, on the other hand, discussed a paper (Chin *et al.* 2010) that examined climate change factors, including ocean acidification, on great hammerhead sharks on Australia's Great Barrier Reef, and found that great hammerhead sharks were ranked as having a low overall vulnerability to climate change, with low vulnerability to each of the assessed climate change factors, including ocean acidification (Miller *et al.* 2014). As such, the referenced studies do not constitute substantial information to support the petition's statement regarding the threat of ocean acidification to the great hammerhead shark species.

The petition also claims that habitat degradation and destruction associated with coastal and ocean development, specifically the placement of high voltage subsea cables, threatens the great hammerhead shark with extinction. This information appears to have been copied from a separate petition (pertaining to the tope shark) and does not provide any evidence of high voltage direct current subsea cables negatively impacting the great hammerhead shark. The petition references the IUCN tope shark assessment (Walker *et al.* 2020), which does not mention great hammerhead shark impacts from any subsea cables, and also references Taormina *et al.* (2018) and Carter *et al.* (2009), neither of which addresses great hammerhead shark impacts.

Overall, the petition fails to present credible, accurate information to constitute substantial scientific or commercial information indicating that the present or threatened destruction, modification, or curtailment of habitat or range is a threat to the great hammerhead shark.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition relies solely on the IUCN assessment of the great hammerhead shark (Rigby *et al.* 2019), specifically the global population reduction, as support for its statement that dramatic declines of the species around the world are evidence that overexploitation is a threat posed to the species. However, the petition does not provide any new information specific to the species that was not already considered in our great hammerhead shark status review report (Miller *et al.* 2014). As stated above, there were only three data sources that the IUCN assessment used to determine the overall global population reduction, and two of these data sources, the Indian Ocean data (Dudley and Simpfendorfer 2006) and one for the North Atlantic (Jiao *et al.* 2011) were both analyzed in our great hammerhead status review report (Miller *et al.* 2014). The third data source, which was not considered in the status review report (J. Carlson unpublished data; see Rigby *et al.* 2019: Supplementary Information), actually showed an increase in median population change of great hammerhead sharks, over three generation lengths, in the North Atlantic. As such, this supports our conclusion from the 12-month finding (79 FR 33509, June 11, 2014) that there is no evidence that overutilization, by itself, is a threat that is currently placing the species at an increased risk of extinction. The severity of the threat of overutilization is dependent upon other risks and threats to the species, such as its abundance (as a demographic risk) as well as its level of protection from fishing mortality throughout its range; however, the petition does not provide any credible new information or otherwise offer substantial scientific or commercial information suggesting the species is at or near a level of abundance that places its current or future persistence at risk due to overutilization. Therefore, we conclude the petition does not present substantial scientific information indicating that listing may be warranted due to overutilization for commercial, recreational, scientific, or educational purposes.

Inadequacy of Existing Regulatory Mechanisms

The petition states that current conservation regulations are ineffective to ensure the survival of the great hammerhead shark, yet does not provide any reference or new evidence of the ineffectiveness of current regulatory mechanisms. The petition mentions many of the Regional Fisheries Management Organizations (RFMOs) (*i.e.,* International Commission for the Conservation of Atlantic Tunas (ICCAT), Inter-American Tropical Tuna Commission, Western and Central Pacific Fisheries Commission, and General Fisheries Commission for the Mediterranean) and their implementation of prohibitions, the designation of great hammerhead sharks as a priority for conservation and management, as well as the defeat of proposals to ban hammerhead landings or set fishing limits. The petition also mentions the addition of great hammerhead sharks to Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. However, these conservation regulations were also evaluated in our great hammerhead shark status review report (Miller *et al.* 2014) and 12-month finding (79 FR 33509, June 11, 2014). The petition also states that the ICCAT adopted the recommendation prohibiting retention, transshipment, landing, and sale of great hammerheads (and other hammerhead species) for ICCAT fisheries operating in the Convention Area, but it has not prevented the continued decline of the species in the Convention Area. However, as mentioned previously, this statement is not supported. Moreover, the petition did not provide any evidence of a decline, and the IUCN assessment of great hammerhead sharks (Rigby *et al.* 2019) actually showed a potential increase in median population change of great hammerhead sharks over three generation lengths in the North Atlantic (J. Carlson unpublished data), which is part of the ICCAT Convention Area.

The petition proceeds to state that national regulations are also inadequate to protect the great hammerhead shark from extinction; however, again, the petition does not provide any evidence of the ineffectiveness of current regulatory mechanisms affecting the great hammerhead shark's status or provide new information that was not already considered in our great hammerhead shark status review report (Miller *et al.* 2014) and 12-month finding (79 FR 33509, June 11, 2014). In terms of our national regulations, and as stated in the 12-month finding (79 FR 33509, June 11, 2014), we found that U.S. conservation and management measures are adequate in decreasing the extinction risk of the great hammerhead shark by minimizing demographic risks (preventing further abundance declines) and the threat of overutilization (strictly

managing and monitoring sustainable catch rates) currently and in the foreseeable future. This has been further confirmed by new information in our files, which, as mentioned above, shows that our preliminary examination of great hammerhead shark trends in abundance in the U.S. Atlantic indicates that since 1994 the population is increasing at about 2 percent per year (*https://sedarweb.org/assessments/sedar-77/*).

As such, the petition fails to present credible new information, or otherwise offer substantial scientific or commercial information indicating that the inadequacy of existing regulatory mechanisms is a threat to the great hammerhead shark.

Other Natural or Manmade Factors Affecting Its Continued Existence

The petition states that exposure to and bioaccumulation of dichlorodiphenyltrichloroethane (DDT) and other pollutants and contaminants likely have played a role in the decline of the great hammerhead shark or can increase the species' risk of extinction. However, none of the references or information provided by the petition examined pollutant or contaminant levels within the great hammerhead shark. The petition also failed to provide any evidence of a decline in the species due to pollutants or contaminants.

Our prior finding, which considered whether the potential bioaccumulation of toxins and metals was contributing to the extinction risk for the great hammerhead shark, determined based on the best available scientific and commercial information that this was not significantly contributing to the species' extinction risk (79 FR 33518, June 11, 2014). Due to the absence of any information in the petition to support extrapolating the referenced studies to the great hammerhead shark and provide some indication that these constituents may be affecting this species' abundance, the statements in the petition are nothing more than unsupported conclusions. As such, the petition fails to present credible new information or otherwise offer substantial scientific or commercial information indicating that other natural or manmade factors are a threat to the great hammerhead shark.

Similarity of Appearance Listing

The petition also requested that the great hammerhead shark be listed due to its similarity of appearance to the scalloped hammerhead shark (*Sphyrna lewini*), a species protected by the ESA since 2014 (79 FR 38213, July 3, 2014); however, the petition does not provide any credible new information or otherwise offer substantial scientific or commercial information that was not previously considered in our 12-month finding for the great hammerhead shark, which already considered the statutory factors regarding similarity of appearance (79 FR 33509, June 11, 2014).

Section 4 of the ESA (16 U.S.C. 1533(e)) provides that the Secretary may treat any species as an endangered or threatened species even though it is not listed pursuant to section 4 of the ESA when the following three conditions are satisfied: (1) Such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species; (2) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and (3) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this chapter (16 U.S.C. 1533(e)(A)–(C)).

Although the great hammerhead shark and scalloped hammerhead shark have similar features (such as a unique head shape), the petition does not provide any references or new information that indicates our enforcement personnel have substantial difficulty in differentiating the two species. The great hammerhead shark is the largest of the hammerhead shark species, and was noted to reach lengths of up to 610 cm total length (TL) (Compagno 1984); although recent sizes have decreased in the species. Based on information in our great hammerhead shark status review report (Miller *et al.* 2014), the largest great hammerhead shark captured during a study in the northwestern Atlantic Ocean and Gulf of Mexico was of 415 cm TL (Piercy *et al.* 2010). Piercy *et al.* (2010) also noted sizes of up to 445 cm TL off northern Australia and ~400 cm TL off South Africa for great hammerhead sharks. On the other hand, observed maximum sizes of scalloped hammerhead sharks are smaller and range from 331–346 cm TL (Stevens and Lyle 1989, Chen *et al.* 1990). In addition to their sizes, the shapes of their head are also distinctive and aid in the differentiation of the two species. In the great hammerhead shark, the front margin of the head is nearly straight, forming a ''T-shape,'' with a shallow notch in the middle, whereas the scalloped hammerhead shark has a broadly arched head, with distinct indentations in the center as well as on either side of the middle notch.

As stated in our 12-month finding (79 FR 33509, June 11, 2014), the fins of these two species can also be distinguished without difficulty. The great hammerhead shark has a very tall, distinctive, crescent-shaped first dorsal fin whereas the first dorsal fin of a scalloped hammerhead shark is shorter and has a rounded apex (Abercrombie *et al.,* 2013). According to a genetic study that examined the concordance between assigned Hong Kong market categories and the corresponding fins, the great hammerhead market category ''Gu pian'' had an 88 percent concordance rate, indicating that traders can accurately identify and separate great hammerhead shark fins from the other hammerhead species (Abercrombie *et al.* 2005, Clarke *et al.* 2006).

Given the distinctive head and body characteristics of the great hammerhead shark and the scalloped hammerhead shark, and evidence that fins of the species can also be accurately identified and separated, we are aware of no evidence to suggest that enforcement personnel may have substantial difficulties in attempting to differentiate between the great hammerhead shark and the scalloped hammerhead shark. Therefore, we do not find that the petition presents any new or substantial scientific or commercial information indicating that a similarity of appearance listing may be warranted at this time.

Petition Finding

We thoroughly reviewed the information presented in the petition, in context of information readily available in our files, and found that it does not provide any credible new information regarding great hammerhead sharks or otherwise offer substantial information not already considered in our status review report of the great hammerhead shark (Miller *et al.* 2014) and 12-month finding (79 FR 33509, June 11, 2014). As such, we find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

References Cited

A complete list of all references cited herein is available upon request (See **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 1, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–24306 Filed 11–7–22; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m. EST, Thursday, November 10, 2022.

PLACE: CFTC Headquarters Conference Center, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (for Commissioners and CFTC staff participants only). Public observation by remote live feed via streaming or phone. See *https://www.cftc.gov* for details and instructions.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') will hold this meeting to consider the following matters:

- *Notice of Proposed Rulemaking:* Reporting and Information Requirements for Derivatives Clearing Organizations; and
- Notice of Proposed Order and Request for Comment on an Application for a Capital Comparability Determination Submitted on behalf of Nonbank Swap Dealers subject to Regulation by the Mexican Comision Nacional Bancaria y de Valores.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* Instructions for public observation of the meeting via access to the live feed of the meeting will also be posted on the Commission's website. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

(Authority: 5 U.S.C. 552b.)

Dated: November 3, 2022.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2022–24424 Filed 11–4–22; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m. EST, Tuesday, November 15, 2022.

PLACE: CFTC headquarters office, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

(Authority: 5 U.S.C. 552b)

Dated: November 4, 2022.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2022–24485 Filed 11–4–22; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0109]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Upward Bound (UB) Upward Bound Math Science (UBMS) Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before December 8, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kathy Morgan, 202–453–7589.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed ICR that is described below. The Department is especially interested in public comments addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public record.

Title of Collection: Upward Bound (UB) Upward Bound Math Science (UBMS) Annual Performance Report.

OMB Control Number: 1840–0831.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 1,178.

Total Estimated Number of Annual Burden Hours: 20,026.

Abstract: The purpose of the Upward Bound (UB) and Upward Bound Math Science (UBMS) Program is to generate in the program's participants the skills and motivation necessary to complete a program of secondary education and to enter and succeed in a program of postsecondary education.

Authority for this program is contained in Title IV, Part A, Subpart 2, Chapter 1, Section 402C of the Higher

Education Opportunity Act of 2008. Eligible applicants include institutions of higher education, public or private agencies, or organizations, including community-based organizations with experience in serving disadvantaged youth, secondary schools, and combinations of institutions, agencies, organizations and secondary schools.

The UB and UBMS Program's participants must be potential first-generation college students, low-income individuals, or individuals who have high risk of academic failure and have a need for academic support in order to pursue successfully a program of education beyond high school. Required services of the UB–UBMS Program include: (1) academic tutoring; (2) advice and assistance in secondary and postsecondary course selection; (3) preparation for college entrance exams and completing college admission applications; (4) information on federal student financial aid programs including (a) Federal Pell grant awards, (b) loan forgiveness, and (c) scholarships; (5) assistance completing financial aid applications; (6) guidance and assistance in: (a) secondary school reentry, (b) alternative programs for secondary school drop outs that lead to the receipt of a regular secondary school diploma, (c) entry into general educational development (GED) programs or (d) entry into postsecondary education; and (7) education or counseling services designed to improve the financial and economic literacy of students or the students' parents, including financial planning for postsecondary education. (8) Also, projects funded for at least two years under the program must provide instruction in mathematics through pre-calculus; laboratory science; foreign language; composition; and literature.

Dated: November 3, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–24359 Filed 11–7–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0139]

Agency Information Collection Activities; Comment Request; Evaluation of Transition Supports for Youth With Disabilities

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before January 9, 2023.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0139. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W208C, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Yumiko Sekino, 202–374–0936.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Evaluation of Transition Supports for Youth with Disabilities.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, local, and Tribal governments.

Total Estimated Number of Annual Responses: 2,096.

Total Estimated Number of Annual Burden Hours: 937.

Abstract: This study will examine the effectiveness, implementation, and costs of two new strategies for supporting youth with disabilities and their families to prepare for a successful transition from high school to adult life. The first strategy is based on a model of self-determination instruction designed to help students develop skills such as goal setting, decision making, planning and apply those skills to plan and pursue their transition goals. The second strategy not only teaches self-determination skills but also provides individual mentoring to help students engage in and take active steps toward their post-school goals. The study will compare the intermediate and post-school outcomes for approximately 3,000 students who have an individualized education program and are approximately two years from high school graduation. Participating students in up to 100 schools and 16 districts will be randomly assigned to receive one of the study's strategies or continue with the regular transition supports they receive from their school.

Dated: November 3, 2022.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–24364 Filed 11–7–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability of a Notice of Intent and Request for Information Regarding the Establishment of a Program To Use the Defense Production Act

AGENCY: Office of Manufacturing and Energy Supply Chains, Department of Energy.

ACTION: Notice of availability of a notice of intent (NOI) and request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) announces the notice of availability (NOA) of a notice of intent and request for information on DOE's support of domestic manufacturing of electric heat pumps using Title III of the Defense Production Act (DPA). DOE invites public comment on the RFI regarding the application process, examples of eligible projects, potential funding sizes required, and criteria for qualification and selection of eligible projects to participate in the electric heat pumps DPA program.

DATES: Responses will be reviewed and considered on a rolling basis but are due no later than 5 p.m. (ET) on December 2nd, 2022.

ADDRESSES: Interested parties are to submit comments electronically to *dpaheatpump@energy.gov* and include ''NOI/RFI: Heat Pump Defense Production Act'' in the subject line. Email attachments can be provided as a Microsoft Word (.docx) file or an Adobe PDF (.pdf) file, prepared in accordance with the instructions in the RFI. Attachments with file sizes exceeding 25MB should be compressed (*i.e.,* zipped) to ensure message delivery; however, no email shall exceed a total of 45MB, including all attachments. The complete RFI document is located at *https://www.energy.gov/mesc/defense-production-act-request-information.* Please refer to the Disclaimer and Important Note section at the end of the RFI on how to submit business sensitive and/or confidential information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information and questions about the NOI and RFI may be addressed to Tsisilile Igogo at (240) 278–5471 or *dpaheatpump@energy.gov.*

SUPPLEMENTARY INFORMATION: In June 2022, President Biden issued five determinations under the DPA, including a presidential determination to allow DOE to use its delegated DPA authorities to expand the domestic production capability for electric heat pumps.[1] In early October 2022, DOE issued a RFI to determine how best to leverage the authority invoked by President Biden to accelerate domestic production of four of the five technologies that received Presidential Determinations under title III of DPA.[2] This joint NOI and RFI focuses on electric heat pumps, the fifth technology that received a Presidential Determination.

U.S. manufacturing output of electric heat pumps, which include ground-source and air-source heat pumps as well as both space heating and water heating equipment, is not yet at the rate or volume needed to fully achieve U.S. climate and energy security goals. Buildings, homes, offices, schools, hospitals, military bases, and other critical facilities drive more than 40% of all U.S. energy consumption. U.S. energy supplies are largely dependent on fossil fuels that remain susceptible to geopolitical impacts from nations that are not U.S. strategic partners or allies.

Section 30001 of the Inflation Reduction Act (IRA) appropriated $500 million to carry out the DPA, and $250 million of that amount was allocated to the Department of Energy for title III of the DPA to support the growth of manufacturing needed to meet the anticipated growing demand for electric heat pumps. DPA resources could help scale up U.S. heating, ventilation, and air conditioning (HVAC) and water heating (WH) manufacturing, accelerate installation of high-efficiency electric heat pumps in homes, qualified buildings, and industrial settings, and complement investment coming through other BIL and IRA provisions.

This NOI describes the proposed funding approach to eligible entities in the electric heat pump industry, including the proposed electric heat pump solicitation process, program structure and criteria. Through this RFI, DOE seeks comment on the application process, examples of eligible projects, potential funding sizes required, and criteria for qualification and selection of eligible projects to participate in the electric heat pumps DPA program. This NOI and RFI are available at: *https://www.energy.gov/mesc/defense-production-act-request-information.*

Confidential Business Information: Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Signing Authority: This document of the Department of Energy was signed on November 1, 2022, by Kathleen Hogan, Principal Deputy Under Secretary for Infrastructure, 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 November 2, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–24291 Filed 11–7–22; 8:45 am]

BILLING CODE 6450–01–P

[1] *www.whitehouse.gov/briefing-room/presidential-actions/2022/06/06/memorandum-on-presidential-determination-pursuant-to-section-303-of-the-defense-production-act-of-1950-as-amended-on-electric-heat-pumps/.*

[2] *www.energy.gov/mesc/defense-production-act-request-information.*

DEPARTMENT OF ENERGY

Accelerating Innovations in Emerging Technologies

AGENCY: Office of Science, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The Office of Science in the Department of Energy (DOE) invites interested parties to provide input relevant to developing approaches for accelerating innovations in emerging technologies to drive scientific discovery to sustainable production of new technologies across the innovation continuum; train a science, technology, engineering, and mathematics (STEM) workforce to support 21st century industries; and meet the nation's needs for abundant clean energy, a sustainable environment, and national security.

DATES: Responses to the RFI must be received by December 23, 2022.

ADDRESSES: DOE is using the *www.regulations.gov* system for the

submission and posting of public comments in this proceeding. All comments in response to this RFI are, therefore, to be submitted electronically through *www.regulations.gov* via the web form accessed by following the ''Submit a Formal Comment'' link.

FOR FURTHER INFORMATION CONTACT: Questions may be submitted to *accelerate@science.doe.gov* or Natalia Melcer at (301) 903–0821.

SUPPLEMENTARY INFORMATION:

Background

Research drives innovations in technologies that ensure a vibrant economy and secure the future of the nation. The United States is a global leader in research and development (R&D), with activities generally focused on two areas. Federally-funded scientific research focuses on discovery and use-inspired research, which is commonly conducted at universities and national/federal laboratories. Applied research, development, and technology demonstration activities are funded by both federal sources and industry and are conducted in university, national laboratory, and industry settings, focusing on demonstrating the application of an innovation to yield a product that can be prototyped, scaled up, and deployed in the marketplace. The gap between these two areas of R&D is often referred to as the ''valley of death'' because science-driven research often does not consider the factors required to drive innovations to sustainable production, and applied R&D and industry often find it difficult to transform early-stage discoveries to mature, deployable technologies. As a result, transitioning fundamental discoveries to new technologies in the marketplace has traditionally been challenging. Further, the innovation process is not linear, and technical bottlenecks arising on the technology demonstration side often require fundamental science breakthroughs (''technology pull''); conversely, fundamental science breakthroughs can drive new technologies (''science push''). Closely coupling these research, development, demonstration, and deployment (RDD&D) processes in a more circular manner will optimize and expedite the development and deployment of next generation technologies.

Bridging these gaps requires a holistic, ''end to end'' approach that closely integrates basic scientific and engineering research across multiple disciplines with applied and industrial activities to ensure that innovations reach the marketplace. Long-term success in driving the innovation continuum of research, development, demonstration, and deployment (RDD&D) will also require STEM workers who are trained broadly across the spectrum of science and engineering to propel discovery, innovation, scale-up, and production of new technologies for the future.

Beyond accelerating innovations in emerging technologies, these research activities have the potential to contribute to local and regional ecosystems to catalyze more innovation, workforce development, entrepreneurship, and economic growth in these regions. This ''place-based innovation'' will leverage partnerships with local or regional private and public organizations that can further lead to a vibrant culture to support innovation and industries of the future.

The DOE Office of Science (SC) seeks input on research approaches that have the potential to push the discovery and creation of innovations towards the production/commercialization of future technologies that will have important public and commercial impact. These approaches would necessarily bring together trans-disciplinary teams of scientists and engineers in diverse fields, taking advantage of talent from national laboratories, regional universities, and industry. These teams will combine key technology focus areas (described later) to achieve the overarching goal of accelerating place-based innovation with an ''end to end'' approach that fully integrates ''science push'' and ''technology pull'' processes to guide the S&T research. Further, to emphasize place-based research growth, approaches should be considered that draw on regional resources and expertise to support the innovation process and allow wholly new concepts and processes to thrive.

Breakthrough scientific discoveries and technological innovation are needed in areas vital to building an innovation economy for the 21st century. As the nation's lead federal agency supporting fundamental scientific research related to energy, SC seeks to drive scientific discovery in ten key areas to yield sustainable production of new technologies and meet the nation's needs for abundant clean energy, a sustainable environment, and national security. These ten key technology focus areas include:

- Artificial intelligence, machine learning, autonomy, and related advances;
- High performance computing, microelectronics, and advanced computer hardware and software;
- Quantum information science and technology;
- Advanced manufacturing and automation;
- Biopreparedness;
- Advanced communications technology and immersive technology;
- Biotechnology, medical technology, genomics, and synthetic biology;
- Data storage, data management, distributed ledger technologies, and cybersecurity, including biometrics;
- Advanced energy and industrial efficiency technologies, such as batteries and advanced nuclear technologies, including but not limited to for the purposes of electric generation; and
- Advanced materials science, including composites, 2D materials, other next-generation materials, and related manufacturing technologies.

The SC mission is to deliver scientific discoveries and major scientific tools to transform our understanding of nature and advance the energy, economic, and national security of the United States. Within this mission, SC supports fundamental research in applied mathematics, biology, chemistry, computer science, engineering, isotope R&D, materials science, and physics that catalyze technical breakthroughs and innovations across these ten key technology focus areas. For example, fundamental advances in materials and chemical processes are required to achieve goals for clean, affordable, and abundant energy generation, storage, and use. Breakthroughs in 2D materials and new electrolytes could enhance ion transport in next-generation batteries to achieve fast-charging, high-power, and high-energy-density requirements needed to power the nation's transportation fleet. Similarly, new materials that can withstand extremes of radiation and temperature could support the development of future fission and fusion reactors with high efficiencies and long lifetimes. To minimize energy costs and wastes and meet demanding design requirements, new approaches will be needed for the manufacturing of next-generation energy technologies, requiring control of materials and chemical processes from the atomic and molecular levels. Revealing the rules of nature could produce breakthroughs in biotechnology, medical technology, and biopreparedness by tailoring biological processes to produce new chemicals, materials, or medical therapeutics. To enable continued advances in computing and power technologies, a fundamental rethinking is needed of the science behind the materials and chemistry, physics, synthesis and fabrication technologies, architectures,

algorithms, and software for microelectronics. Computational modeling could enable the design of highly selective separation media to increase the efficiency of isotope production approaches. Finally, to realize a next-generation technology may require advances in multiple key technology areas, such as combining advances in new manufacturing, materials, artificial intelligence, and machine learning to produce next-generation batteries.

Questions for Input

This RFI is an initial step in improving SC's understanding of the challenges and opportunities associated with transitioning new discoveries to high-value technologies to drive the economy of the future. The RFI is a solicitation for public input to help identify approaches that can accelerate the process from scientific discovery to sustainable production of new technologies across the innovation continuum. Responses should be limited to the SC mission areas, as described in the Background section. (Note: Responses submitted to the request for information on advanced computing ecosystems do not need to be submitted again: *https://sam.gov/opp/8c35a6cc1692492e94c337ba645ecce5/view*).

Responses are requested for the questions listed. Respondents may provide input regarding any or all of these questions. Each response should be numbered to match the specific question listed.

(1) What are the barriers or challenges that need to be addressed to transition basic scientific discoveries to applied technologies?

(2) What opportunities are there to build research teams that bridge the discovery to production spectrum, providing an ''end to end'' approach that fully integrates ''science push'' and ''technology pull'' processes to guide research to realize new technologies?

(3) What new opportunities could be realized by combining two or more of the ten key technologies to accelerate the development of innovative products?

(4) What specific metrics should be used to measure the success of new approaches for accelerating technology development?

(5) To prepare for future industries, what opportunities are there for ensuring a robust workforce related to the ten key technologies? What skills are needed for students preparing for a career, and which of these skills are not commonly available in educational institutions?

(6) What specialized facilities or capabilities are needed to support research activities related to the ten key technology areas? Are there new capabilities needed that could be provided through the scientific user facilities at the DOE National Laboratories, such as the light and neutron sources, particle accelerators, nanoscience centers, and high-performance computing facilities (*https://science.osti.gov/User-Facilities*)?

(7) What new mechanisms will help a region, especially those centered on underserved communities, establish a vibrant innovation ecosystem to foster training, recruitment, and retention of technical personnel, support spinoffs, and growth of existing companies, develop entrepreneurs, and catalyze future industries in the key technologies?

Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Note that comments will be made publicly available as submitted.

Signing Authority

This document of the Department of Energy was signed on November 2, 2022, by Asmeret Asefaw Berhe, Director, Office of Science, pursuant to delegated authority from the Secretary of Energy. The 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 November 2, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–24250 Filed 11–7–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on November 16–17, 2022, as a hybrid meeting via webinar and in person, in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) which is scheduled at the same time via webinar.

DATES: November 16–17, 2022.

ADDRESSES: The location details of the SEQ and SOM webinar meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France. The in person meeting will take place at IEA Headquarters, 9 rue de la Fédération, 75015 Paris, France.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Reilly, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–5000.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held in person and via webinar at the IEA Headquarters, 9 rue de la Fédération, 75015 Paris, commencing at 9:30 a.m., Paris time, on November 16, 2022. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM), which is scheduled to be held at the same location in person and via webinar at the same time.

The location details of the SEQ and SOM webinar meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France. The agenda of the meeting is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Welcome by the Chair
2. New delegates to introduce themselves
3. Adoption of the Agenda
4. Approval of Summary Record of meeting of 21 June 2022
5. Update on the Current Oil Market Situation
6. Reports on Recent Oil Market and Policy Developments in IEA Countries
7. World Energy Outlook
8. Proposed changes to government reporting form for crude oil import prices (crude oil register)

9. Update on diesel/gasoil demand
10. Update on refining developments/ outlook for Refining and product supply
11. Update on crude and refined product trade developments
12. Outlook for diesel market: Oil Company
13. Update on trade and shipping: Shipbroker
14. Update on trade and shipping: Insurance company
15. Summary and Round Table Discussion
16. Any other business:

Date of next SOM/SEQ meetings: 14–16 March 2023

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held in person and via webinar at the IEA Headquarters, 9 rue de la Fédération, 75015 Paris, commencing at 9:30 a.m., Paris time, on November 17, 2022. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the same location in person and via webinar at the same time. The IAB will also hold a preparatory meeting among company representatives at the same location at 08:30 a.m. Paris time on November 17, 2022. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting.

The location details of the SEQ meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France. The agenda of the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 170th SEQ meeting
3. Ministerial Mandate on oil stockholding
4. Stockholding levels of IEA Member Countries
5. IEA oil stockholding releases 2022
6. QuE reporting
7. Mid-term review Korea
8. Emergency Response Review of Australia
9. Industry Advisory Board Update
10. Oral Reports by Administrations
11. Emergency Response Review of Greece
12. Gas Security
13. Any Other Business

Schedule of ERRs for 2023

Schedule of SEQ & SOM Meetings for 2023:

—14–16 March 2023 (tentative)
—13–15 June 2023 (tentative)
—14–16 November 2023 (tentative)

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Signing Authority: This document of the Department of Energy was signed on November 3, 2022, by Thomas Reilly, Assistant General Counsel for International and National Security Programs, 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, November 3, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–24357 Filed 11–7–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: [ER10–1951–049; ER10–1970–026; ER10–1972–026; ER10–1973–018; ER10–1974–029; ER10–1975–030; ER10–2641–043; ER11–2192–020; ER11–2365–009; ER11–4462–071; ER11–4677–024; ER12–676–020; ER12–2444–023; ER13–2461–021; ER14–21–014; ER14–2708–025; ER14–2709–024; ER14–2710–024; ER15–30–022; ER15–58–022; ER15–1016–017; ER15–2243–015; ER16–1440–018; ER16–1913–011; ER16–2240–018; ER16–2241–017; ER16–2297–018; ER16–2443–014; ER16–2506–019; ER17–196–009; ER17–838–046; ER17–1774–008; ER18–772–009; ER18–807–010; ER18–1535–009; ER18–1981–013; ER18–2224–017; ER18–2314–009; ER19–11–008; ER19–1128–007; ER19–2266–007; ER20–792–007; ER20–1219–005; ER20–1220–008; ER20–1417–006; ER20–1879–009; ER20–1985–005; ER20–1988–006; ER20–1991–007; ER20–2012–005; ER20–2153–007; ER20–2380–006; ER20–2603–007; ER20–2648–006; ER21–183–005; ER21–1506–005; ER21–1532–004; ER21–1880–003; ER21–2048–005; ER21–2100–005; ER21–2641–004; ER22–96–003].

Applicants: Route 66 Solar Energy Center, LLC, Quinebaug Solar, LLC, Point Beach Solar, LLC, Sac County Wind, LLC, Niyol Wind, LLC, Quitman II Solar, LLC, Shaw Creek Solar, LLC, Nutmeg Solar, LLC, Northern Divide Wind, LLC, Skeleton Creek Wind, LLC, Saint Solar, LLC, Sanford Airport Solar, LLC, Orbit Bloom Energy, LLC, Ponderosa Wind, LLC, Northern Colorado Wind Energy Center II, LLC, Northern Colorado Wind Energy Center, LLC, Oliver Wind I, LLC, Roundhouse Renewable Energy, LLC, Oliver Wind Center II, LLC, Peetz Table Wind, LLC, Oklahoma Wind, LLC, Quitman Solar, LLC, Rush Springs Energy Storage, LLC, Peetz Logan Interconnect, LLC, Sholes Wind, LLC, Pegasus Wind, LLC, Pratt Wind, LLC, Montauk Energy Storage Center, LLC, Pinal Central Energy Center, LLC, New Mexico Wind, LLC, NextEra Energy Bluff Point, LLC, NextEra Energy Marketing, LLC, Pima Energy Storage System, LLC, Oliver Wind III, LLC, NextEra Blythe Solar Energy Center, LLC, Osborn Wind Energy, LLC, Ninnescah Wind Energy, LLC, Rush Springs Wind Energy, LLC, River Bend Solar, LLC, Roswell Solar, LLC, Silver State Solar Power South, LLC, Shafter Solar, LLC, Palo Duro Wind Interconnection Services, LLC, Seiling Wind Interconnection Services, LLC, Palo Duro Wind Energy, LLC, Seiling Wind II, LLC, Seiling Wind, LLC, Mountain View Solar, LLC, Pheasant Run Wind, LLC, North Sky River Energy, LLC, Perrin Ranch Wind, LLC, NextEra Energy Montezuma II Wind, LLC, NEPM II, LLC, Paradise Solar Urban Renewal, L.L.C., Red Mesa Wind, LLC, Oleander Power Project, Limited Partnership, Sayreville Power Generation LP.

Description: Notice of Change in Status of NextEra Energy Services Massachusetts, LLC, Part 3 of 4, et al.

Filed Date: 10/31/22.

Accession Number: 20221031–5405.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER10–2078–025; ER11–4678–023; ER12–631–024; ER12–1660–026; ER13–2458–021; ER13–2474–023; ER16–1277–014; ER16–1293–014; ER17–582–015; ER17–583–015; ER17–2270–018; ER18–2032–013; ER18–2091–010; ER19–774–009; ER19–1076–008; ER19–2382–010; ER19–2495–009; ER19–2513–009; ER20–637–007; ER20–780–007; ER20–2070–005; ER20–2237–007; ER20–2597–007; ER20–2622–006; ER21–255–006; ER21–744–004; ER21–1580–005; ER21–1813–007; ER21–1814–007; ER21–2109–003; ER22–1370–004; ER22–1870–001; ER22–2601–001; ER22–2824–001.

Applicants: Yellow Pine Solar, LLC, Walleye Wind, LLC, Vansycle II Wind, LLC, Sunlight Storage, LLC, Wheatridge Solar Energy Center, LLC, Yellow Pine Energy Center II, LLC, Yellow Pine Energy Center I, LLC, Sky River Wind, LLC, Wallingford Renewable Energy LLC, Taylor Creek Solar, LLC, Wilmot Energy Center, LLC, Soldier Creek Wind, LLC, Weatherford Wind, LLC, Wheatridge Wind II, LLC, Sooner Wind, LLC, Wilton Wind Energy I, LLC, Wilton Wind Energy II, LLC, Wessington Springs Wind, LLC, Story County Wind, LLC, Windstar Energy, LLC, Stanton Clean Energy, LLC, Titan Solar, LLC, Wildcat Ranch Wind Project, LLC, Stuttgart Solar, LLC, Whitney Point Solar, LLC, Westside Solar, LLC, White Oak Solar, LLC, White Pine Solar, LLC, Steele Flats Wind Project, LLC, Tuscola Wind II, LLC, Tuscola Bay Wind, LLC, Windpower Partners 1993, LLC, Vasco Winds, LLC, White Oak Energy LLC.

Description: Notice of Change in Status of White Oak Energy LLC, Part 4 of 4 et al.

Filed Date: 10/31/22.

Accession Number: 20221031–5398.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER11–4462–072; ER10–1951–050; ER13–2474–024; ER14–2708–026; ER14–2709–025; ER14–2710–025; ER15–30–023; ER15–58–023; ER16–1440–019; ER16–2240–019; ER16–2241–018; ER16–2297–019; ER17–838–047; ER18–1981–014; ER18–2032–014; ER18–2314–010; ER19–1128–008; ER19–2495–010; ER19–2513–010; ER20–637–008; ER20–780–008; ER20–792–008; ER20–1991–008; ER20–2237–008; ER20–2597–008; ER20–2603–008; ER20–2648–007.

Applicants: Wilton Wind Energy II, LLC, Wilton Wind Energy I, LLC, Wildcat Ranch Wind Project, LLC, Wessington Springs Wind, LLC, Weatherford Wind, LLC, Steele Flats Wind Project, LLC, Soldier Creek Wind, LLC, Sooner Wind, LLC, Skeleton Creek Wind, LLC, Sholes Wind, LLC, Seiling Wind, LLC, Seiling Wind Interconnection Services, LLC, Seiling Wind II, LLC, Rush Springs Wind Energy, LLC, Rush Springs Energy Storage, LLC, Roswell Solar, LLC, Pratt Wind, LLC, Ponderosa Wind, LLC, Palo Duro Wind Interconnection Services, LLC, Palo Duro Wind Energy, LLC, Osborn Wind Energy, LLC, Oklahoma Wind, LLC, Northern Divide Wind, LLC, Ninnescah Wind Energy, LLC, NextEra Energy Services Massachusetts, LLC, NextEra Energy Marketing, LLC, NEPM II, LLC.

Description: Notice of Change in Status of Elk City Wind, LLC, Part 2 of 2, et al.

Filed Date: 10/31/22.

Accession Number: 20221031–5406.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER12–1821–004.

Applicants: Colorado Highlands Wind, LLC.

Description: Notice of Change in Status of Colorado Highlands Wind, LLC.

Filed Date: 11/1/22.

Accession Number: 20221101–5253.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER13–172–002; ER20–134–001; ER18–1777–004; ER10–1342–006.

Applicants: CP Energy Marketing (US) Inc., Meadowlark Wind I LLC, Cardinal Point LLC, Midland Cogeneration Venture Limited Partnership.

Description: Notice of Change in Status, Tariff Amendments, and Request for Waiver of Midland Cogeneration Venture Limited Partnership.

Filed Date: 10/31/22.

Accession Number: 20221031–5399.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER20–2019–007; ER11–2642–023; ER10–1849–029; ER10–1852–072; ER12–895–028; ER12–1228–030; ER13–712–031; ER14–2707–025; ER15–1925–023; ER15–2676–022; ER16–1672–020; ER16–2190–019; ER16–2191–019; ER16–2275–018; ER16–2276–018; ER16–2453–020; ER17–2152–016; ER18–882–015; ER18–1863–013; ER18–2003–014; ER18–2066–009; ER18–2118–015; ER18–2182–015; ER20–1907–007; ER20–1986–006; ER20–2064–008; ER21–1990–005; ER21–2117–006; ER21–2149–006; ER21–2225–006; ER21–2296–006; ER21–2699–007; ER22–1982–002.

Applicants: Great Prairie Wind, LLC, Minco Wind Energy III, LLC, Ensign Wind Energy, LLC, Irish Creek Wind, LLC, Minco Wind Energy II, LLC, Little Blue Wind Project, LLC, Blackwell Wind Energy, LLC, High Majestic Wind I, LLC, Day County Wind I, LLC, Minco Wind I, LLC, Minco IV & V Interconnection, LLC, Armadillo Flats Wind Project, LLC, Minco Wind IV, LLC, Lorenzo Wind, LLC, Coolidge Solar I, LLC, Elk City Renewables II, LLC, Cottonwood Wind Project, LLC, Brady Interconnection, LLC, Kingman Wind Energy II, LLC, Kingman Wind Energy I, LLC, Brady Wind II, LLC, Brady Wind, LLC, Chaves County Solar, LLC, Cedar Bluff Wind, LLC, Breckinridge Wind Project, LLC, Mammoth Plains Wind Project, LLC, Cimarron Wind Energy, LLC, High Majestic Wind II, LLC, Minco Wind Interconnection Services, LLC, Florida Power & Light Company, Elk City Wind, LLC,FPL Energy South Dakota Wind, LLC, Gray County Wind, LLC.

Description: Notice of Change in Status of Elk City Wind, LLC, Part 1 of 2, et al.

Filed Date: 10/31/22.

Accession Number: 20221031–5404.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER22–2953–001.

Applicants: Public Service Company of New Hampshire, ISO New England Inc.

Description: Tariff Amendment: ISO New England Inc. submits tariff filing per 35.17(b): Establishment of Depreciation Rate for Accts 357 and 358 in App D–PSNH to Att F to be effective 1/1/2023.

Filed Date: 11/2/22.

Accession Number: 20221102–5131.

Comment Date: 5 p.m. ET 11/23/22.

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: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24331 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3253–000]

Mad River Power Associates; Notice of Authorization for Continued Project Operation

The license for the Campton Hydroelectric Project No. 3253 was issued for a period ending October 31, 2022.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 3253 is issued to Mad River Power Associates for a period effective November 1, 2022, through October 31, 2023, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before October 31, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Mad River Power Associates is authorized to continue operation of the Campton Hydroelectric Project under the terms and conditions of the prior license until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

Dated: November 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24346 Filed 11–7–22; 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.
Kawailoa Solar, LLC	EG22–199–000
Sunflower Energy Center, LLC	EG22–200–000
Chaparral Springs, LLC	EG22–201–000
Appaloosa Run Wind, LLC	EG22–202–000
Young Wind, LLC	EG22–203–000
Lacy Creek Wind, LLC	EG22–204–000
Inertia Wind Project, LLC	EG22–205–000
AES Energy Storage, LLC	EG22–206–000
MTSun LLC	EG22–207–000
Hunt Energy Network Land Company, L.L.C	EG22–208–000
HEN Infrastructure, L.L.C	EG22–209–000
Eight Point Wind, LLC	EG22–210–000
Clearwater Energy Resources LLC	EG22–211–000
Sun Valley Solar LLC	EG22–212–000
BT Cunningham Storage, LLC	EG22–213–000
CPV Three Rivers, LLC	EG22–214–000

Take notice that during the month of October 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: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24336 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #3

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: ER23–335–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: NorthWestern Corporation submits tariff filing per 35.13(a)(2)(iii: SA 296 6th Rev—NITSA with ExxonMobil Corporation to be effective 1/1/2023.

Filed Date: 11/1/22.

Accession Number: 20221101–5203.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER23–336–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: Revised Exhibits to Montana Intertie Agreement to be effective 10/1/2022.

Filed Date: 11/1/22.

Accession Number: 20221101–5212.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER23–337–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3599R1 Missouri Electric Commission NITSA NOA to be effective 1/1/2023.

Filed Date: 11/1/22.

Accession Number: 20221101–5214.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER23–338–000.

Applicants: Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: Duke Energy Florida, LLC submits tariff filing per 35.13(a)(2)(iii: DEF—Revisions to Joint OATT to Provide NFEETS to be effective 12/31/9998.

Filed Date: 11/1/22.

Accession Number: 20221101–5216.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER23–339–000.

Applicants: South Carolina Generating Company, Inc.

Description: § 205(d) Rate Filing: Small Rate Increase GENCO to be effective 1/1/2023.

Filed Date: 11/1/22.

Accession Number: 20221101–5219.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER23–340–000.

Applicants: El Paso Electric Company (EPE).

Description: El Paso Electric Company submits 2022 WECC Soft Price Cap Justification Filing.

Filed Date: 10/28/22.

Accession Number: 20221028–5394.

Comment Date: 5 p.m. ET 11/18/22.

Docket Numbers: ER23–341–000.

Applicants: Concurrent LLC.

Description: Baseline eTariff Filing: Concurrent LLC submits tariff filing per 35.12: Application for Market-Based Rate Authorization to be effective 11/2/2022.

Filed Date: 11/1/22.

Accession Number: 20221102–5000.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER23–342–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4029 Panhandle Solar & SPS Facilities Service Agreement to be effective 1/2/2023.

Filed Date: 11/2/22.

Accession Number: 20221102–5004.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–343–000.

Applicants: Sirrius Energy LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Sirrius Energy LLC.

Filed Date: 11/1/22.

Accession Number: 20221101–5251.

Comment Date: 5 p.m. ET 11/22/22.

Docket Numbers: ER23–344–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2022–11–02_SA 3321 METC-Isabella Renewables I & II E&P (J717 J728) to be effective 11/3/2022.

Filed Date: 11/2/22.

Accession Number: 20221102–5039.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–345–000.

Applicants: Versant Power.

Description: § 205(d) Rate Filing: Revised Attachment J Formula Rates for MPD OATT to be effective 6/1/2023.

Filed Date: 11/2/22.

Accession Number: 20221102–5061.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–346–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 1127; Queue No. AD2–113/AD2–114 (amend) to be effective 11/12/2019.

Filed Date: 11/2/22.

Accession Number: 20221102–5069.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–347–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Initial Filing of Rate Schedule No. 349 to be effective 10/3/2022.

Filed Date: 11/2/22.

Accession Number: 20221102–5091.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–348–000.

Applicants: New England Power Company.

Description: § 205(d) Rate Filing: 2022–11–02 Filing of Revisions to New England Power Company Tariff No. 1 to be effective 1/1/2023.

Filed Date: 11/2/22.

Accession Number: 20221102–5093.

Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–349–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Section 205 Filing re: Bad Debt Loss Allocation Calculation Revisions to be effective 1/3/2023.

Filed Date: 11/2/22.

Accession Number: 20221102–5094.

Comment Date: 5 p.m. ET 11/23/22.

Take notice that the Commission received the following electric reliability filings.

Docket Numbers: RD23–1–000.

Applicants: North American Electric Reliability Corporation.

Description: North American Electric Reliability Corporation submits Petition for Approval of Proposed Reliability Standards EOP–011–3 and EOP–012–1 and Request for Expedited Action.

Filed Date: 10/28/22.

Accession Number: 20221028–5393.

Comment Date: 5 p.m. ET 12/1/22.

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: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24332 Filed 11–7–22; 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: EC23–17–000.

Applicants: RWE Aktiengesellschaft, Consolidated Edison, Inc., RWE Renewables Americas, LLC, Con Edison Clean Energy Businesses, Inc., Alpaugh 50, LLC, Battle Mountain SP, LLC, Broken Bow Wind II, LLC, Campbell County Wind Farm, LLC, CED Timberland Solar, LLC, CED White River Solar 2, LLC, CED Wistaria Solar, LLC, Consolidated Edison Energy, Inc., Consolidated Edison Solutions, Inc., Copper Mountain Solar 1, LLC, Copper Mountain Solar 2, LLC, Copper Mountain Solar 3, LLC, Copper Mountain Solar 4, LLC, Copper Mountain Solar 5, LLC, Great Valley Solar 1, LLC, Great Valley Solar 2, LLC, Great Valley Solar 3, LLC, Mesquite Solar 1, LLC, Mesquite Solar 2, LLC, Mesquite Solar 3, LLC, Mesquite Solar 4, LLC, Mesquite Solar 5, LLC, Panoche Valley Solar, LLC, Pleasant Hill Solar, LLC, SEP II, LLC, Water Strider Solar LLC, Watlington Solar, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of RWE Aktiengesellschaft.

Filed Date: 10/28/22.

Accession Number: 20221028–5314.

Comment Date: 5 p.m. ET 11/18/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1520–010; ER10–1521–010; ER10–2474–029; ER10–2475–030; ER10–3246–023; ER13–1266–043; ER13–1266–044; ER15–2211–041; ER20–2493–005; ER22–1385–004.

Applicants: Occidental Power Services, Inc., Occidental Power Marketing, L.P., Sierra Pacific Power Company, Nevada Power Company, PacifiCorp, CalEnergy, LLC, MidAmerican Energy Services, LLC, OTCF, LLC, BHER Market Operations, LLC.

Description: Notice of Change in Status of Occidental Power Services, Inc.

Filed Date: 10/31/22.

Accession Number: 20221031–5401.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER10–1841–027; ER10–1849–028; ER10–1851–016; ER10–2005–027; ER11–26–027; ER13–712–030; ER13–752–017; ER13–1991–024; ER13–1992–024; ER15–1418–017; ER15–1883–017; ER15–1925–022; ER15–2582–012; ER15–2676–021; ER16–91–016; ER16–632–016; ER16–1672–019; ER16–2190–018; ER16–2191–018; ER16–2453–019; ER17–804–003; ER17–2152–015; ER18–882–014; ER18–1534–010; ER18–1863–012; ER18–1978–010; ER18–2118–014; ER19–987–014; ER19–1003–014; ER19–1073–008; ER19–1393–014; ER19–1394–014; ER19–2269–007; ER19–2373–010; ER19–2437–010; ER19–2461–010; ER19–2901–008; ER20–122–008; ER20–819–010; ER20–820–009; ER20–1769–008; ER20–1980–006; ER20–1986–005; ER20–1987–009; ER20–2049–005; ER20–2179–007; ER21–1320–004; ER21–1519–004; ER21–1682–004; ER21–1879–004; ER21–1990–004; ER21–2118–006; ER21–2293–006; ER21–2294–005; ER21–2296–005; ER21–2304–005; ER21–2674–005; ER22–381–005; ER22–415–005; ER22–2634–001; ER22–2706–001.

Applicants: Eight Point Wind, LLC, Buffalo Ridge Wind, LLC, Arlington Energy Center III, LLC, Dunns Bridge Solar Center, LLC, Borderlands Wind, LLC, Arlington Solar, LLC, Ensign Wind Energy, LLC, Arlington Energy Center II, LLC, Fish Springs Ranch Solar, LLC, Dodge Flat Solar, LLC, Blackwell Wind Energy, LLC, Farmington Solar, LLC, Elora Solar, LLC, Cool Springs Solar, LLC, Crystal Lake Wind Energy III, LLC, Baldwin Wind Energy, LLC, Cedar Springs Wind III, LLC, Cerro Gordo Wind, LLC, Day County Wind I, LLC, Cedar Springs Wind, LLC, Chicot Solar, LLC, Blythe Solar IV, LLC, Blythe Solar III, LLC, Crowned Ridge Interconnection, LLC, Bronco Plains Wind, LLC, Crowned Ridge Wind, LLC, Emmons-Logan Wind, LLC, Ashtabula Wind I, LLC, Dougherty County Solar, LLC, Endeavor Wind II, LLC, Endeavor Wind I, LLC, Alta Wind VIII, LLC, Crystal Lake Wind Energy II, LLC, Crystal Lake Wind Energy I, LLC, Armadillo Flats Wind Project, LLC, Casa Mesa Wind, LLC, Coolidge Solar I, LLC, East Hampton Energy Storage Center, LLC, Elk City Renewables II, LLC, Cottonwood Wind Project, LLC, Coram California Development, L.P., Brady Interconnection, LLC, Brady Wind II, LLC, Brady Wind, LLC, Chaves County Solar, LLC, Blythe Solar II, LLC, Blythe Solar 110, LLC, Cedar Bluff Wind, LLC, Carousel Wind Farm, LLC, Breckinridge Wind Project, LLC, Adelanto Solar, LLC, Adelanto Solar II, LLC, Desert Sunlight 300, LLC, Desert Sunlight 250, LLC, Energy Storage Holdings, LLC, Cimarron Wind Energy, LLC, Ashtabula Wind III, LLC, Ashtabula Wind II, LLC, ESI Vansycle Partners, L.P., Elk City Wind, LLC, Butler Ridge Wind Energy Center, LLC.

Description: Notice of Change in Status of Adelanto Solar II, LLC, Part 1 of 4 et al.

Filed Date: 10/31/22.

Accession Number: 20221031–5395.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER10–1852–070; ER10–1857–019; ER10–1890–023; ER10–1899–018; ER10–1907–026; ER10–1918–027; ER10–1930–016; ER10–1931–017; ER10–1932–019; ER10–1935–020; ER10–1950–027; ER10–1962–023; ER10–1966–018; ER11–2160–023; ER11–2642–022; ER11–3635–019; ER12–895–027; ER12–1228–029; ER12–2225–017; ER12–2226–017; ER13–2112–018; ER13–2147–006; ER14–1630–014; ER14–2138–014; ER14–2447–001; ER14–2707–024; ER15–1375–017; ER15–2101–013; ER15–2477–016; ER15–2601–010; ER16–90–016; ER16–1354–013; ER16–1872–017; ER16–2275–017; ER16–2276–017; ER17–2340–013; ER18–1771–016; ER18–1952–013; ER18–2003–013; ER18–2066–008; ER18–2182–014; ER18–2246–016; ER19–1392–009; ER19–2389–008; ER19–2398–012; ER20–1907–006; ER20–2019–006; ER20–2064–007; ER20–2690–008; ER20–2695–008; ER21–254–006; ER21–1953–006; ER21–2117–005; ER21–2149–005; ER21–2225–005; ER21–2699–006; ER22–1454–001; ER22–1982–001; ER22–2536–001; ER22–2552–001.

Applicants: Java Solar, LLC, Kossuth County Wind, LLC, Great Prairie Wind, LLC, LI Solar Generation, LLC, Minco Wind Energy III, LLC, Irish Creek Wind, LLC, Minco Wind Energy II, LLC, Little Blue Wind Project, LLC, Heartland Divide Wind II, LLC, Harmony Florida Solar, LLC, Mohave County Wind Farm LLC, Jordan Creek Wind Farm LLC, High Majestic Wind I, LLC, Gray County Wind, LLC, Minco Wind I, LLC, Hancock County Wind, LLC, Grazing Yak Solar, LLC, High Lonesome Mesa Wind, LLC, Heartland Divide Wind Project, LLC, Minco IV & V Interconnection, LLC, Minco Wind IV, LLC, Lorenzo Wind, LLC, Gulf Power Company, Langdon Renewables, LLC, Golden Hills North Wind, LLC, Kingman Wind Energy II, LLC, Kingman Wind Energy I, LLC, Marshall Solar, LLC, Live Oak Solar, LLC, Golden Hills Interconnection, LLC, Green Mountain Storage, LLC, Golden Hills Wind, LLC, Golden West Power Partners, LLC, McCoy Solar, LLC, Mammoth Plains Wind Project, LLC, Granite Reliable Power, LLC, Limon Wind III, LLC, Mantua Creek Solar, LLC, Frontier Utilities New York LLC, Genesis Solar, LLC, Limon Wind, LLC, Limon Wind II, LLC, High Majestic Wind II, LLC, Minco Wind Interconnection Services, LLC, Hatch Solar Energy Center I, LLC, FPL Energy South Dakota Wind, LLC, FPL Energy Montezuma Wind, LLC, Logan Wind Energy LLC, High Winds, LLC, Garden Wind, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC, FPL Energy Vansycle, L.L.C., FPL Energy Stateline II, Inc., FPL Energy North Dakota Wind II, LLC, FPL Energy North Dakota Wind, LLC, FPL Energy Illinois Wind, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Cape, LLC, Florida Power & Light Company.

Description: Notice of Change in Status of Florida Power & Light Company, Part 2 of 4 et al.

Filed Date: 10/31/22.

Accession Number: 20221031–5396.

Comment Date: 5 p.m. ET 11/21/22.

Docket Numbers: ER10–1910–026; ER10–1911–026.

Applicants: Duquesne Power, LLC, Duquesne Light Company.

Description: Notice of Change in Status of Duquesne Light Company, et al.

Filed Date: 10/31/22.

Accession Number: 20221031–5402.

Comment Date: 5 p.m. ET 11/21/22.

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: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24334 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15235–000]

Nature and People First Arizona PHS, LLS; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 5, 2021, Nature and People First Arizona PHS, LLC (NFPA) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of Black Mesa Pumped Storage Project South to be located in Navajo and Apache Counties, Arizona. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) a new upper reservoir with a surface area of 8,200 acres and a total storage capacity of 250,000 acre-feet at a normal maximum operating elevation of 7,610 feet average mean sea level (msl); (2) a new lower reservoir with a surface area of 14,500 acres and a total storage capacity of 250,000 acre-feet at a normal maximum operating elevation of 5,810 feet msl; (3) a 13,700-foot-long, 23-foot-diameter concrete lined tunnel and 3,800-foot-long with three 18-foot-diameter concrete lined draft tube tunnel penstock connecting the upper and lower reservoir north to the powerhouse; (4) a 15,400-foot-long, 23-foot-diameter concrete lined tunnel and 2,700-foot-long with three 18-foot-diameter concrete lined draft tube tunnel penstock connecting the upper and lower reservoir middle to the powerhouse; (5) a 17,500-foot-long, 23-foot-diameter concrete lined tunnel and 4,700-foot-long with three 18-foot-diameter concrete lined draft tube tunnel penstock connecting the upper and lower reservoir south to the powerhouse; (6) three 320-foot-long, 60-foot-wide and 100-foot-high new underground powerhouses containing three turbine-generator units each with a total rated capacity of 2,250 megawatts; (7) a new 110-mile-long, 230-kilovolt (kV) transmission line connecting the powerhouses to existing San Juan substation; and (8) appurtenant facilities. The estimated annual power generation at the Black Mesa Pumped Storage South would be 4,027.5 gigawatt-hours.

Applicant Contact: Mr. Denis Payre, President and CEO, Nature and People First Arizona PHS, LLC, 405 Waltham St., Suite 145, Lexington, MA 02421. *Denis.Payre@natureandpeoplefirst.com.*

FERC Contact: Ousmane Sidibe; Phone: (202) 502–6245.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15235–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *https://www.ferc.gov/ferc-online/elibrary/overview.* Enter the docket number (P–15235) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24279 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 201–033]

Petersburg Municipal Power & Light; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-capacity Amendment of License.

b. *Project No:* 201–033.

c. *Date Filed:* July 11, 2022.

d. *Applicant:* Petersburg Municipal Power & Light.

e. *Name of Project:* Blind Slough Hydroelectric Project.

f. *Location:* The project is located on Crystal Creek in Petersburg, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Karl Hagerman, Petersburg Municipal Power & Light, P.O. Box 329, Petersburg, AK 99833. Phone: 907–772–5421, Email: *khagerman@petersburgak.gov.*

i. *FERC Contact:* Jennifer Ambler, (202) 502–8586, *jennifer.ambler@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* December 1, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you

may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–201–033. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee proposes to replace and refurbish project equipment which would require an amendment to the license to update the project description (Exhibit A), Exhibit F drawings, and the Article 404 Flow Continuation Plan to reflect the proposed project modifications and describe the method for delivering water to the Crystal Lake Hatchery during an extended project outage. The licensee proposes to replace generating equipment (Unit 3) and to decommission Units 1 and 2. The project currently consists of two powerhouses containing generating units with rated capacities of 1,600 kilowatts (kW) and 400 kW. The upgraded project generating equipment would consist of a new turbine generator with a rated capacity of 1,822 kW and the generating unit would be housed in a single powerhouse (Unit 3). The second powerhouse and its generating equipment (Unit 1 and 2) would be decommissioned. The applicant states the major generating equipment (turbine, generator, and governor) is reaching the end of its service life and needs replacement. Additionally, the penstock leading to the primary powerhouse that would be used to house the upgraded generating equipment requires repairs to provide extended service life. The proposed changes to the generating equipment would result in an increase in the maximum hydraulic capacity of less than 15 percent and an increase in name-plate capacity of less than 2 megawatts.

l. Locations of the Application: This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: November 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24277 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1922–052]

Ketchikan Public Utilities; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 1922–052.

c. *Date filed:* October 27, 2022.

d. *Applicant:* Ketchikan Public Utilities (KPU).

e. *Name of Project:* Beaver Falls Hydroelectric Project (project).

f. *Location:* On Beaver Falls Creek in Ketchikan Gateway Borough, Alaska. The project occupies 478.4 acres of United States lands administered by U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Jennifer Holstrom, Senior Project Engineer, Ketchikan Public Utilities, 1065 Fair Street, Ketchikan, Alaska 99901; (907) 228–4733; or email at *jenniferh@ktn-ak.us.*

i. *FERC Contact:* Kristen Sinclair at (202) 502–6587, or *kristen.sinclair@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and

serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* December 26, 2022.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Beaver Falls Hydroelectric Project (P–1922–052).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The existing Beaver Falls Project consists of two developments: Silvis and Beaver Falls. The Silvis development consists of: (1) a 60-foot-high, 135-foot-long concrete-face, rock-filled Upper Silvis Lake dam; (2) an 800-foot-long excavated rock spillway channel leading from Upper Silvis Lake to Lower Silvis Lake; (3) a 300-acre reservoir (Upper Silvis Lake) with gross storage capacity of approximately 38,000 acre-feet; (4) a 980-foot-long underground power tunnel connecting to a 342-foot-long, 36-inch-diameter steel penstock that conveys water to the Silvis Powerhouse; (5) a 30-feet by 40-feet by 25-feet-high Silvis powerhouse containing a single Francis-type turbine with a rated capacity of 2.1 megawatts; (6) a 150-foot-long trapezoidal shaped channel tailrace discharging into Lower Silvis Lake; (7) a 2,900-foot-long, 5-kilovolt submarine cable beneath Lower Silvis Lake; (8) a 7,000-foot-long, 34.5-kilovolt aerial transmission line; and (9) appurtenant facilities.

The Beaver Falls development consists of: (1) a 32-foot-high, 140-foot-long concrete-face, rock-filled Lower Silvis dam; (2) a spillway with an ungated control weir and unlined rock discharge channel; (3) a 67.5-acre reservoir (Lower Silvis Lake) with gross storage capacity of approximately 8,052 acre-feet; (4) a 3-foot-high, 40-foot-long concrete diversion dam on Beaver Falls Creek; (5) a 3,800-foot-long underground power tunnel connecting to a 3,610-foot-long above ground steel penstock that conveys water from Lower Silvis Lake to the Beaver Falls powerhouse and supplies water to Units 3 and 4 in the powerhouse; (6) a 225-foot-long adit that taps the 3,800-foot-long underground power tunnel and discharges water into Beaver Falls Creek approximately 500-feet upstream of the Beaver Falls diversion dam; (7) a 4,170-foot-long above ground steel penstock that conveys water from the Beaver Falls Creek diversion dam to the Beaver Falls powerhouse and supplies Unit 1 in the powerhouse; (8) a 30-feet by 147-feet by 25-feet-high Beaver Falls powerhouse containing three horizontal Pelton generating units with a total installed capacity of 5 MW (Units 1, 3 and 4; Unit 2 is decommissioned); (9) a Beaver Falls substation; and (10) appurtenant facilities. The project generates an annual average of 54,711,280 megawatt-hours.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–1922). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Additional Study Requests due	December 2022.
Issue Deficiency Letter (if necessary)	December 2022.
Request Additional Information (if needed)	December 2022.
Issue Notice of Acceptance	March 2023.
Issue Scoping Document 1 for comments	April 2023.
Issue Scoping Document 2	June 2023.
Issue Notice of Ready for Environmental Analysis	June 2023.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: November 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24347 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4784–106]

Topsham Hydro Partners Limited Partnership (L.P.); Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Pejepscot Hydroelectric Project, located on the Androscoggin River in Sagadahoc, Cumberland, and Androscoggin Counties in the village of Pejepscot and the town of Topsham, Maine and has prepared a Final Environmental Assessment (FEA) for the project. No federal land is occupied by project works or located within the project boundary.

The FEA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The number of pages in the FEA exceeds the page limits set forth in the Council on Environmental Quality's July 16, 2020 final rule, *Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act* (85 FR 43304). Noting the scope and complexity of the proposed action and action alternatives, the Director of the Office of Energy Projects, as our senior agency official, has authorized this page limit exceedance for the EA.

The Commission provides all interested persons with an opportunity to view and/or print the FEA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/eSubscription.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any questions regarding this notice may be directed to Ryan Hansen at (202) 502–8074 or *ryan.hansen@ferc.gov*.

Dated: November 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24345 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–326–000]

Arroyo Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Arroyo Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 22, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24338 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5124–000]

Washington Electric Cooperative, Inc.; Notice of Authorization for Continued Project Operation

The license for the North Branch No. 3 Hydroelectric Project No. 5124 was issued for a period ending October 31, 2022.

Section 15(a)(1) of the Federal Power Act (FPA), 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 5124 is issued to the Washington Electric Cooperative, Inc for a period effective November 1, 2022, through October 31, 2023, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before October 31, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission,

unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the Washington Electric Cooperative, Inc is authorized to continue operation of the North Branch No. 3 Hydroelectric Project under the terms and conditions of the prior license until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

Dated: November 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24344 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–26–000]

Commission Information Collection Activities (Ferc-577); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission FERC–577 (Natural Gas Facilities: Environmental Review and Compliance), which will be submitted to the Office of Management and Budget (OMB) for review. No comments were received on the 60-day notice published on August 29, 2022.

DATES: Comments on the collection of information are due December 8, 2022.

ADDRESSES: Send written comments on FERC–577 to OMB through *www.reginfo.gov/public/do/PRAMain.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number (1902–0128) in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. IC22–26–000) by one of the following methods:

Electronic filing through *https://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.
  - *Mail via U.S. Postal Service Only: Addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (Including Courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection. *FERC submissions* must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov/ferc-online/overview.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–577, Natural Gas Facilities: Environmental Review and Compliance.

OMB Control No.: 1902–0128.

Type of Request: Three-year extension of the FERC–577 with no changes to the current reporting requirements.

Abstract: The FERC–577 contains the Commission's information collection pertaining to regulations which implement the National Environmental Policy Act (NEPA) as well as the reporting requirements for landowner notifications. These requirements are contained in 18 CFR parts 2, 157, 284, and 380. The information to be submitted includes draft environmental material in accordance with the provisions of part 380 of FERC's regulations in order to implement the Commission's procedures under NEPA. Without such information, the Commission would be unable to fulfill its statutory responsibilities under the Natural Gas Act (NGA), NEPA, and the Energy Policy Act of 2005. Specifically, these responsibilities include ensuring company activities remain consistent with the public interest, which is specified in the NGA and inherent in the other statutes.

Type of Respondents: Companies proposing Natural Gas Projects under section 7 and Jurisdictional Gas Pipeline and Storage Companies.

Estimate of Annual Burden: [1] The Commission estimates the annual public reporting burden and cost [2] for the information collection as follows:

FERC–577, NATURAL GAS FACILITIES: ENVIRONMENTAL REVIEW AND COMPLIANCE

	Number of respondents (1)	Number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours and average cost per response ($) (rounded) (4)	Total annual burden hours and total annual cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (rounded) (5) ÷ (1) = (6)
Gas Pipeline Certificates [1].	101	16	1,616	193.52 hours; $17,610.32.	312,725 hours; $28,457,975.	$281,762.13

[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

[2] The Commission staff estimates that industry is similarly si,tuated in terms of hourly cost (for wages plus benefits). Based on the Commission's FY (Fiscal Year) 2022 average cost (for wages plus benefits), $188,922 or $91.00/hour is used.

FERC–577, NATURAL GAS FACILITIES: ENVIRONMENTAL REVIEW AND COMPLIANCE—Continued

	Number of respondents (1)	Number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours and average cost per response ($) (rounded) (4)	Total annual burden hours and total annual cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (rounded) (5) ÷ (1) = (6)
Landowners Notification [2].	164	144	23,616	2 hours; $182	47,232 hours; $4,298,112.	$26,208
Total			25,232		359,957 hours; $32,756,087.	

[1] Requirements are found in 18 CFR parts 2, 157, and 380.
[2] Requirements are found in 18 CFR 157(d), 157(f), 2.55(a), 2.55(b), 284.11, and 380.15.

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: November 2, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24343 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF22–8–000]

East Tennessee Natural Gas, LLC; Notice of Scoping Meeting for the Planned System Alignment Program Project

On October 19, 2022, the staff of the Federal Energy Regulatory Commission (FERC or Commission) issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Planned System Alignment Program Project.* The notice announced the ongoing scoping period that ends on November 18, 2022. In the notice, staff indicated that a separate notice would be issued to indicate the dates and times for a virtual scoping meeting. With this notice FERC staff invites you to attend the virtual scoping meeting it will conduct by telephone for the planned System Alignment Program Project. The System Alignment Program Project involves construction and operation of facilities by East Tennessee Natural Gas, LLC in Knox, Jefferson, and Sevier Counties, Tennessee; Rockingham County, North Carolina; and Washington and Wythe Counties, Virginia. East Tennessee Natural Gas, LLC would also complete a hydrotest of an approximately 1.2-mile segment of existing pipeline in Patrick County, Virginia. This virtual scoping meeting will be held as follows:

System Alignment Program Project

Public Scoping Meeting

Date, Time, and Call-in Information

Wednesday, November 16, 2022, 6:00 p.m. (EST)
Call in number: 888–790–2037
Participant passcode: 8945002

Note that the scoping meeting will start at 6:00 p.m. (EST) and will terminate once all participants wishing to comment have had the opportunity to do so, or at 8:00 p.m. (EST), whichever comes first. The primary goal of this scoping session is to have you identify the specific environmental issues and concerns that should be considered in the environmental document. Individual oral comments will be taken on a one-on-one basis with a court reporter present on the line. This format is designed to receive the maximum amount of oral comments in a convenient way during the timeframe allotted.

There will be a brief introduction by Commission staff when the session opens. Important information about the FERC process will be provided, so please make every attempt to call in at the beginning of the meeting. All participants will be able to hear the one-on-one comments provided by other participants; however, all lines will remain closed during the comments of others and then opened one at a time for providing comments.

Your oral comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system. If a significant number of people are interested in providing oral comments in the one-on-one settings, a time limit of 3 minutes may be implemented for each commentor. It is important to note that oral comments hold the same weight as written or electronically submitted comments.

As a reminder, the Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; and

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (PF22–8–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888

First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

This notice is being sent to the Commission's current environmental mailing list for the Project. Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information. Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link.

Dated: November 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24278 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2570–034]

Eagle Creek Racine Hydro, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2570–034.

c. *Date filed:* November 30, 2021.

d. *Applicant:* Eagle Creek Racine Hydro, LLC (Eagle Creek).

e. *Name of Project:* Racine Hydroelectric Project (Racine Project).

f. *Location:* The Racine Project is located at the U.S. Army Corps of Engineers' (Corps) Racine Locks and Dam on the Ohio River near the Town of Racine in Meigs County, Ohio. The project occupies 27.99 acres of federal land administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Joyce Foster, Director, Licensing and Compliance; *joyce.foster@eaglecreekre.com* or (804) 338–5110.

i. *FERC Contact:* Jay Summers at *jay.summers@ferc.gov* or (202) 502–8764.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper request. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2570–034.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

The Council on Environmental Quality (CEQ) issued a final rule on April 20, 2022, revising the regulations under 40 CFR parts 1502, 1507, and 1508 that federal agencies use to implement the National Environmental Policy Act (NEPA) (see National Environmental Policy Act Implementing Regulations Revisions, 87 FR 23,453–70). The final rule became effective on May 20, 2022. Commission staff intends to conduct its NEPA review in accordance with CEQ's new regulations.

l. *The Racine Project would use the Corps' existing Racine Locks and Dam and consist of the following existing facilities:* (1) four 21.75-foot-wide by 60-foot-high intake openings equipped with steel trashracks having a clear bar spacing of 5.5 inches; (2) a reinforced concrete powerhouse located on the east end of the dam containing two horizontal bulb generating units with a combined capacity of 47.5 megawatts; (3) a 155-foot-long, non-overflow section of sheet pile cells located between the powerhouse and the right abutment; (4) a stand-alone functional replacement dam located upstream of the sheet pile cells that consists of a drilled shaft supported concrete dam with a drilled secant pile seepage control; (5) a 834-foot-long, 69-kilovolt transmission line; and (6) appurtenant facilities.

The Racine Project is currently operated in a run-of-release mode using surplus water from the Corps' Racine Locks and Dam, as directed by the Corps, and has an estimated average annual energy production of 90,364 megawatt-hours. Eagle Creek does not propose any new construction and proposes to continue operating the project in a run-of-release mode.

m. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnllineSupport@ferc or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received

on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *The license applicant must file no later than 60 days following the date of issuance of this notice:* (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification. Please note that the certification request must comply with 40 CFR 121.5(b), including documentation that a pre-filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request. Please note that the certification request must be sent to the certifying authority and to the Commission concurrently.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Deadline for Filing Protest, Motion to Intervene, Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions.	December 2022.
Deadline for Filing Reply Comments	February 2023.

Dated: November 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24275 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–327–000]

Arroyo Energy Storage LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Arroyo Energy Storage LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 22, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24329 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR23–4–000.
Applicants: Hope Gas, Inc.
Description: § 284.123(g) Rate Filing: HGI—2022 PREP Filing to be effective 11/1/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5055.
Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: RP23–142–000.
Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Keyspan Nat 510369 Releases 11–1–2022 to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5106.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–143–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Bug Co Nat 809476 Releases eff 11–1–22 to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5110.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–144–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Kaiser OH 35448 to Kaiser Appalachian 53919) to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5111.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–145–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (JayBee 34446 to Macquarie 53942) to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5112.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–146–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 11–1–2022 to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5113.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–147–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Osaka 46429 to Texla 55742, Spotlight 55741) to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5117.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–148–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: PAL Negotiated Rate Agreements to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5119.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–149–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—11/1/2022 to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5126.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–150–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Amendment—Antero 176700–14 & COH 241816–1 to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5143.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–151–000.
Applicants: WBI Energy Transmission, Inc.
Description: § 4(d) Rate Filing: 2022 Negotiated and Non-Conforming SA ONEOK FT–1804 to be effective 12/2/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5150.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–152–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements—11/1/2022 to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5157.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–153–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Non-conforming Agrmnt—JPMorgan K911866 to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5165.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–154–000.
Applicants: ANR Storage Company.
Description: § 4(d) Rate Filing: TC eConnects Conversion and Housekeeping to be effective 12/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5167.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–155–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: 2022 Fuel Tracker Filing to be effective 4/1/2023.
Filed Date: 11/1/22.
Accession Number: 20221101–5169.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–156–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Tariff Part 5.0 Effective Priority Correction to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5177.
Comment Date: 5 p.m. ET 11/8/22.

Docket Numbers: RP23–157–000.
Applicants: Blue Lake Gas Storage Company.
Description: § 4(d) Rate Filing: TC eConnects Conversion and Housekeeping to be effective 12/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5188.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–158–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Capacity Release Agreements—Gunvor and Direct Energy to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5197.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–159–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: ANR November 1 Neg. Rate Agreements to be effective 11/1/2022.
Filed Date: 11/1/22.
Accession Number: 20221101–5221.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–160–000.
Applicants: Stagecoach Pipeline & Storage Company LLC.
Description: § 4(d) Rate Filing: Stagecoach Pipeline & Storage Company LLC—Equinor, Chesapeake & EQT Energy to be effective 12/1/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5042.
Comment Date: 5 p.m. ET 11/14/22.

Docket Numbers: RP23–162–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: § 4(d) Rate Filing: Assignment of Non-Conforming Agreement (XTO to Van Buren) to be effective 11/2/2022.
Filed Date: 11/2/22.
Accession Number: 20221102–5059.
Comment Date: 5 p.m. ET 11/14/22.

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.

Filings in Existing Proceedings

Docket Numbers: RP23–16–000.
Applicants: LA Storage, LLC.
Description: Report Filing: LA Storage, LLC Tariff Filing Revising Effective Date to be effective N/A.
Filed Date: 11/2/22.
Accession Number: 20221102–5015.

Comment Date: 5 p.m. ET 11/14/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24333 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–341–000]

Concurrent LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Concurrent LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 22, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: November 2, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24330 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2533–062]

Brainerd Public Utilities; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2533–062.

c. *Date filed:* March 1, 2021.

d. *Applicant:* Brainerd Public Utilities.

e. *Name of Project:* Brainerd Hydroelectric Project (Brainerd Project).

f. *Location:* On the Mississippi River, in the City of Brainerd, in Crow Wing County, Minnesota. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Scott Magnuson, Superintendent, Brainerd Public Utilities, 8027 Highland Scenic Road, P.O. Box 273, Brainerd, MN 56401. Phone (218) 825–3213 or email at *smagnuson@bpu.org.*

i. *FERC Contact:* Patrick Ely at *patrick.ely@ferc.gov* or (202) 502–8570.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper request. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2533–062.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a

particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

The Council on Environmental Quality (CEQ) issued a final rule on April 20, 2022, revising the regulations under 40 CFR parts 1502, 1507, and 1508 that federal agencies use to implement the National Environmental Policy Act (NEPA) (see National Environmental Policy Act Implementing Regulations Revisions, 87 FR 23,453–70). The final rule became effective on May 20, 2022. Commission staff intends to conduct its NEPA review in accordance with CEQ's new regulations.

l. *The Brainerd Project consists of the following facilities:* (1) a short left embankment; (2) a 256-foot-long powerhouse containing five turbine generators with a totaled installed capacity of 2.9425 megawatts (MW); (3) a 78-foot-long slide gate section; (4) a 207-foot-long bascule (crest) gate section; (5) a single 20-foot-wide steel Tainter gate; (6) a 200-foot-long right embankment; (7) a 236-foot-long, 2.4-kilovolt overhead transmission line; (8) a 25-foot-high dam; and (9) 2,500-acre impoundment.

The Brainerd Project is operated in a run-of-river mode with an estimated annual energy production of approximately 19,392 megawatt hours. Brainerd Public Utilities proposes to continue operating the project as a run-of-river facility and does not propose any new construction to the project. A license amendment allows for a sixth turbine generator unit, which would increase the total installed capacity to 3.5425 MW. The sixth turbine generator unit has not yet been installed. See 156 FERC ¶ 62,045 (2016).

m. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnllineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or '' PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *The license applicant must file no later than 60 days following the date of issuance of this notice:* (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification. Please note that the certification request must be sent to the certifying authority and to the Commission concurrently.

p. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Deadline for Filing Protest, Motion to Intervene, Comments, Recommendations, and Agency Terms and Conditions/Prescriptions.	December 2022.
Deadline for Filing Reply Comments	February 2023.

Dated: November 1, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–24276 Filed 11–7–22; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 19–329; FR ID 112824]

Federal Advisory Committee Act; Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Task Force) will hold its next meeting via live internet link.

DATES: December 2, 2022. The meeting will come to order at 10 a.m. EST.

ADDRESSES: The meeting will be held via conference call and be available to

the public via live feed from the FCC's web page at *www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Cuttner, Designated Federal Officer, at (202) 418–2145, or *Elizabeth.Cuttner@fcc.gov;* Stacy Ferraro, Deputy Designated Federal Officer, at (202) 418–0795, or *Stacy.Ferraro@fcc.gov;* or Lauren Garry, Deputy Designated Federal Officer, at (202) 418–0942, or *Lauren.Garry@fcc.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be held on December 2, 2022 at 10 a.m. EST and may be viewed live, by the public, at *http://www.fcc.gov/live.* Any questions that arise during the meeting should be sent to *PrecisionAgTF@fcc.gov* and will be answered at a later date. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the Task Force should be filed in GN Docket No. 19–329. Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to fill.

Proposed Agenda: At this meeting, the Task Force will hear presentations on topics relevant to its charges and will consider and vote on reports from its four working groups: (1) Mapping and Analyzing Connectivity on Agricultural Lands; (2) Accelerating Broadband Deployment on Unserved Agricultural Lands; (3) Examining Current and Future Connectivity Demand for Precision Agriculture; and (4) Encouraging Adoption of Precision Agriculture and Availability of High-Quality Jobs on Connected Farms. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24295 Filed 11–7–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

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 the BHC Act (12 U.S.C. 1842(c)).

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 December 8, 2022.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Head of Bank Applications) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *SR Bancorp, Inc., Bound Brook, New Jersey;* to become a bank holding company by acquiring Somerset Savings Bank, SLA, Bound Brook, New Jersey, upon the conversion of Somerset Savings Bank, SLA, from mutual to stock form.

B. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org* comments:

1. *Southern Missouri Bancorp, Inc., Poplar Bluff, Missouri;* to merge with Citizens Bancshares Co., and thereby indirectly acquire Citizens Bank and Trust Company, both of Kansas City, Missouri.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–24372 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Respectful Maternity Care: Dissemination and Implementation of Perinatal Safety Culture To Improve Equitable Maternal Healthcare Delivery and Outcomes

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Respectful Maternity Care: Dissemination and Implementation of Perinatal Safety Culture to Improve Equitable Maternal Healthcare Delivery and Outcomes,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before December 8, 2022.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the

Evidence-based Practice Center (EPC) Program to complete a review of the evidence for *Respectful Maternity Care: Dissemination and Implementation of Perinatal Safety Culture to Improve Equitable Maternal Healthcare Delivery and Outcomes.* AHRQ is conducting this systematic review pursuant to Section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on Respectful Maternity Care: Dissemination and Implementation of Perinatal Safety Culture to Improve Equitable Maternal Healthcare Delivery and Outcomes, including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/respectful-maternity-care/protocol.*

This is to notify the public that the EPC Program would find the following information on Respectful Maternity Care: Dissemination and Implementation of Perinatal Safety Culture to Improve Equitable Maternal Healthcare Delivery and Outcomes helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential, marketing materials, study types not included in the review, or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Key Questions (KQs)

KQ1. Which components of Respectful Maternity Care (RMC) have been examined using validated measures? Are there validated tools to measure RMC?

KQ2. What is the effectiveness of strategies to implement RMC?

KQ3. What is the effectiveness of RMCe on maternal health and utilization outcomes?

a. How does effectiveness vary among disadvantaged pregnant persons?

b. Which components of RMC are associated with effectiveness?

c. Which (non-patient) factors are associated with effectiveness?

KQ4. What is the effectiveness of RMC on infant health outcomes?

a. How does effectiveness vary among infants of disadvantaged pregnant persons?

b. Which components of RMC are associated with effectiveness?

c. Which (non-patient) factors are associated with effectiveness?

For KQ 3a and 4a, 'disadvantaged pregnant persons' may be defined by geography, race/ethnicity, age, disability, language, education, SES, etc., as described in Cochrane's PROGRESS-Plus framework.[1] In KQ 3c and 4c, 'non-patient factors' could be related to setting (type of hospital, rural/urban, staffing ratios) or intervention characteristics.

Contextual Question (CQ)

CQ1. How is RMC during labor and delivery, and the immediate postpartum period defined in the literature? Does the literature define the essential/critical components of RMC? For example, is teamwork and communication (amongst providers, staff, patients and families) an essential element of RMC?

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, AND SETTINGS)

	Inclusion	Exclusion
Population	KQ 1–4: Pregnant adolescents and adults admitted for labor through discharge after delivery. *Subgroups of interest:* • KQ 3a and 4a: Disadvantaged individuals [a].	Non-pregnant populations.
Interventions	KQ 1: Validated measures of RMC KQ 2: Implementation strategies for RMC (*e.g.,* patient/provider education, policies, payment, doula/patient advocate, practice facilitation). KQ 3–4: RMC (any definition). KQ 3b and 4b: Specific component of RMC.	Non-validated RMC measures.
Comparators	KQ 1: Other tool(s), reference/gold standard or no tool to measure RMC. KQ 2: Other implementation strategies for RMC. KQ 3–4: Routine maternity care. Absence of a specific RMC component.	No tool, measure, or comparison.
Outcomes	KQ 1: • RMC as measured by a validated tool.	KQ4: Infant health outcomes >1 year.

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, AND SETTINGS)—Continued

	Inclusion	Exclusion
	KQ 2: • RMC provider knowledge and/or practices. • Rates of procedures and interventions. KQ 3: • Health outcomes for pregnant persons. ○ Maternal morbidity. ○ Maternal mortality. ○ Mental health outcomes. ○ Function, quality of life, patient satisfaction using validated measures. ○ Mental health outcomes based on validated measures (*e.g.,* anxiety, depression). ○ Harms. • Utilization outcomes for pregnant persons. ○ Length of stay. ○ Healthcare utilization post-discharge. ○ Rates of procedures. KQ 4: • Health outcomes for infants. ○ Infant morbidity. ○ Infant mortality. ○ Harms. • Utilization outcomes for infants. ○ Length of stay. ○ Healthcare utilization post-discharge.	
Timing	• Intervention: Admission for labor through discharge after delivery. • Outcomes: from admission through one year postpartum	Interventions: before labor, during prenatal care. Outcomes: More than one year postpartum.
Settings	• KQ1, CQ: All countries in a hospital or birthing facility setting (eg, birth centers). • KQ 2–4: hospital or birthing facility in US or US relevant countries. • KQ 3c and 4c: hospital or birthing facility in US or US relevant countries.	Home births.
Study designs and publication types.	• KQ1–4: Trials (randomized and comparative nonrandomized), comparative observational studies.	KQ 1: Studies that do not describe psychometric properties/methods of determining validity of measures or components. KQ2–4: Case reports, case series (or similar single-arm designs). Publication types: Conference abstracts or proceedings, editorials, letters, white papers, citations that have not been peer-reviewed, single site reports of multi-site studies.

Abbreviations: CQ, contextual question; KQ, key question; RMC, respectful maternity care.
"Disadvantaged persons" as defined by PROGRESS-plus framework.[1]

Reference

1. O'Neill J, Tabish H, Welch V, et al. Applying an equity lens to interventions: using PROGRESS ensures consideration of socially stratifying factors to illuminate inequities in health. J Clin Epidemiol. 2014 Jan;67(1):56–64. doi: 10.1016/j.jclinepi.2013.08.005. PMID: 24189091.

Dated: November 2, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–24384 Filed 11–7–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces 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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463.

Name of Committee: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Dates: February 7–8, 2023.

Times: 11:00 a.m.–5:00 p.m., EST.

Place: Teleconference.

Agenda: The meeting will convene to address matters related to the conduct of Study Section business and for the Study Section to consider safety and occupational health-related grant applications.

For Further Information Contact: Michael Goldcamp, Ph.D., Scientific Review Officer, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26506; Telephone: (304) 285–5951; Email: *MGoldcamp@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to

announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–24280 Filed 11–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Maternal, Infant, and Early Childhood Home Visiting Program Home Visiting Budget Assistance Tool

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than January 9, 2023.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the acting HRSA Information Collection Clearance Officer, at (301) 443–9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program Home Visiting Budget Assistance Tool, OMB No. 0906–0025–Revision.

Abstract: HRSA is requesting continued approval and revision to the Home Visiting Budget Assistance Tool (HV–BAT). The tool collects information on standardized cost metrics from programs that deliver home visiting services, as outlined in the HV–BAT. Entities receiving MIECHV formula funds that are states, jurisdictions, and nonprofit awardees are required to submit cost data using the HV–BAT to HRSA once every 3 years to be reviewed for accuracy and quality control and to collect data to estimate national program costs.

The MIECHV Program, authorized by section 511 of the Social Security Act, 42 U.S.C. 711, and administered by HRSA in partnership with the Administration for Children and Families, supports voluntary, evidence-based home visiting services during pregnancy and for parents with young children up to kindergarten entry. States, Tribal entities, and certain nonprofit organizations are eligible to receive funding from the MIECHV Program and have the flexibility to tailor the program to serve the specific needs of their communities. Funding recipients may subaward grant funds to local implementing agencies (LIA) in order to provide services to eligible families in at-risk communities. HRSA is making the following changes to the HV–BAT:

- Updating the burden estimate for completing the HV–BAT based on recently gathered information, and
- Translating the HV–BAT data collection instrument into Spanish to expand accessibility.

Need and Proposed Use of the Information: HRSA uses HV–BAT data to collect comprehensive home visiting cost data. Awardees submit aggregated data from their individual LIA, which provides HRSA with information needed to produce state and national cost estimates and support procurement activities and subrecipient monitoring. Requiring data submission also allows HRSA to ensure the tool is being accurately and appropriately used. Because the use of a standardized tool of this kind is novel to the field of home visiting, HRSA requires that states submit data collected using the HV–BAT to HRSA for the purposes of quality control reviews and accuracy checks. Submission will allow HRSA to estimate national-level costs for use in conducting research and analysis of home visiting costs, understanding cost variation, and assessing how comprehensive program cost data can inform other policy priorities, such as innovative financing strategies. HRSA is seeking to revise burden estimates to ensure accuracy and inform awardee planning for this activity. In addition, HRSA is translating the HV–BAT data collection instrument into Spanish in response to awardee feedback and to increase accessibility for LIA sites that primarily operate in Spanish.

Likely Respondents: One-third of MIECHV Program awardees (n=19, annually) that are states, jurisdictions, and, nonprofit organizations receiving MIECHV funding to provide home visiting services within states.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Home Visiting Budget Assistance Tool (HV–BAT)	19	13	247	24	5,928
Total	19	13	247	24	5,928

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–24375 Filed 11–7–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Center for Genetic Studies.

Date: December 1, 2022.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Caitlin Elizabeth Angela Moyer, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *caitlin.moyer@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: November 2, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–24302 Filed 11–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–44; OMB Control No. 2502–0041]

60-Day Notice of Proposed Information Collection: Multifamily Default Status Report

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* January 9, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Default Status Report.

OMB Approval Number: 2502–0041.

OMB Expiration Date: April 30, 2023.

Type of Request: Extension of a currently approved collection.

Form Number: N/A

Description of the need for the information and proposed use:

The regulations at 24 CFR 207.256, 24 CFR 207.256a, and 24 CFR 207.258 require a mortgagee to notify HUD when a mortgage payment is in default (more than 30 days past due), when a mortgage has been reinstated, and to submit an election to assign a defaulted loan to HUD within a specified timeframe from the date of default. The regulation at 24 CFR 200, Subpart B, requires lenders to submit delinquency, default, election to assign, and other related loan information statuses electronically to HUD. Lenders previously used HUD Form 92426 for these submissions, however, with the implementation of the regulation requiring electronic notification, the Multifamily Delinquency and Default Reporting System (MDDR) was established to replace the paper form HUD–92426. HUD uses the information as an early warning mechanism to work with project owners and lenders to develop a plan that will reinstate a loan and avoid an insurance claim. It also provides HUD staff a mechanism for mortgagee compliance with HUD's loan servicing procedures and assignments.

Respondents: Respondents are FHA-approved multifamily lenders (business or other for-profit).

Estimated Number of Respondents: 114.

Estimated Number of Responses: 1368.

Frequency of Response: 12.

Average Hours per Response: 10 minutes.

Total Estimated Burden: 228.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of

information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Jeffrey D. Little,

General Deputy Assistant Secretary, Office of Housing.

[FR Doc. 2022–24314 Filed 11–7–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX23MR00G74E400; OMB Control Number 1028–0098]

Agency Information Collection Activities; Nonindigenous Aquatic Species Sighting Report Form and Alert Registration Form

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the U.S. Geological Survey (USGS) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before January 9, 2023.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0098 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Matthew Neilson by email at *mneilson@usgs.gov,* or by telephone at (352) 264–3519. 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 PRA, 44 U.S.C. 3501 *et seq.* and 5 CFR 1320.8(d)(1), all information collections require approval. We may not conduct or sponsor, nor are you 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 the agency might 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 personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: America is under siege by many harmful non-native species of plants, animals, and microorganisms. More than 6,500 nonindigenous species are now established in the United States, posing risks to native species, valued ecosystems, and human and wildlife health. These invaders extract a huge cost—an estimated $120 billion per year—to mitigate their harmful impacts. The current annual environmental, economic, and health-related costs of invasive species exceed those of all other natural disasters combined.

Through its Invasive Species Program (*http://www.usgs.gov/ecosystems/invasive_species/*), the USGS plays an important role in federal efforts to combat invasive species in natural and semi-natural areas through early detection and assessment of newly established invaders; monitoring of invading populations; and improving understanding of the ecology of invaders and factors in the resistance of habitats to invasion. The USGS provides the tools, technology, and information supporting efforts to prevent, contain, control, and manage invasive species nationwide. To meet user needs, the USGS also develops methods for compiling and synthesizing accurate and reliable data and information on invasive species for inclusion in a distributed and integrated web-based information system.

As part of the USGS Invasive Species Program, the Nonindigenous Aquatic Species (NAS) database (*http://nas.er.usgs.gov/*) functions as a repository and clearinghouse for occurrence information on nonindigenous aquatic species from across the United States. It contains locality information on approximately 1,380 species of vertebrates, invertebrates, and vascular plants introduced since 1850. Taxa include foreign species as well as those native to North America that have been transported outside of their natural range. The NAS website provides immediate access to new occurrence records through a real-time interface with the NAS database. Visitors to the website can use a set of predefined queries to obtain lists of species according to state or hydrologic basin of interest. Fact sheets, distribution maps, and information on new occurrences are continually posted and updated. Dynamically generated species

distribution maps show the spatial accuracy of the locations reported, population status, and links to more information about each report. The NAS database will collect information on new species occurrences from the public using a sighting report form, which includes the species observed, location and date of observation, optional contact information (for any subsequent follow up discussion on observation), and optional images or other media files that provide supporting evidence of the organism.

The NAS website also allows users to sign up for email alert notifications of new species observations of interest matching several taxonomic or geographic filters through an alert registration form. The information collected includes a name, email address, a user-specific password, and notification preferences.

Title of Collection: Nonindigenous Aquatic Species Sighting Reporting Form and Alert Registration Form.

OMB Control Number: 1028–0098.

Form Number: None.

Type of Review: Renewal of a currently approved collection.

Respondents/Affected Public: Federal, State, and local government employees, university personnel, and private individuals.

Total Estimated Number of Annual Respondents: We estimate approximately 350 respondents per year for the sighting report form (some respondents will submit multiple reports per year), and 50 respondents (*i.e.,* new registrations) per year for the alert registration form.

Total Estimated Number of Annual Responses: We estimate 600 responses per year for the sighting report form, and 50 responses (*i.e.,* new registrations) per year for the alert registration form.

Estimated Completion Time per Response: We estimate 3 minutes for the sighting report form, and 1 minute for the alert registration form.

Total Estimated Number of Annual Burden Hours: We estimate 30 hours for the sighting report form, and 1 hour for the alert registration form; a total of 31 hours for the two forms.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA (44 U.S.C. 3501 *et seq*).

Lynn Copeland,

Center Director, Wetland and Aquatic Research Center, U.S. Geological Survey.

[FR Doc. 2022–24337 Filed 11–7–22; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/A0A501010.999900; OMB Control Number 1076–0111]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA), are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before December 8, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to Steven Mullen, Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1001 Indian School Road NW, Suite 229, Albuquerque, New Mexico 87104; or by email to *comments@bia.gov.* Please reference OMB Control Number 1076–0111 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, please contact Johnna Blackhair, Acting Deputy Bureau Director, Indian Services, BIA by email at *johnna.blackhair@bia.gov* or by telephone at (202) 513–7641. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 16, 2022 (87 FR 36342). We received one comment.

Comment: The Bureau should adopt forms to assist courts and attorneys in claiming payment. The provisions for payment of appointed counsel in ICWA cases should be expanded to include counsel for Tribes that can demonstrate a financial need. In the request for comment, it states that the Bureau receives two requests for payment from state courts per year under the section and estimates that the total annual time burden on state courts for these requests is six hours. Two applications for funding annually from throughout the country indicates that very little use is being made of the procedures set out in the regulations. If payment for appointed counsel is expanded, the process for appointment of counsel for tribes should be consistent with tribal sovereignty and autonomy. Congress should appropriate realistic funding for requests for reimbursement for the costs of appointed counsel. The Federal government should also consider allowing states to use funding provided under title IV–E of the Social Security Act to support providing appointed counsel to tribes to participate in cases governed by the Indian Child Welfare Act.

Agency Response to Comment: BIA appreciates this feedback and proposes to revise this information collection with a form to assist courts and attorneys in claiming payment.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether the collection of information is necessary for the proper

performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BIA is seeking renewal of the approval for the information collection conducted under 25 CFR 23.13, implementing the Indian Child Welfare Act (25 U.S.C. 1901 *et seq.*). The information collection allows BIA to receive written requests by State courts that appoint counsel for an indigent Indian parent or Indian custodian in an involuntary Indian child custody proceeding when appointment of counsel is not authorized by State law. The applicable BIA Regional Director uses this information to decide whether to certify that the client in the notice is eligible to have his/her counsel compensated by the BIA in accordance with the Indian Child Welfare Act.

Proposed Revisions

BIA proposes to revise this information collection with a form to assist courts and attorneys in claiming payment.

Title of Collection: Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts.

OMB Control Number: 1076–0111.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: State courts.

Total Estimated Number of Annual Respondents: Two (2) per year.

Total Estimated Number of Annual Responses: Two (2) per year.

Estimated Completion Time per Response: Two (2) hours for reporting and one (1) for recordkeeping.

Total Estimated Number of Annual Burden Hours: Six (6) hours.

Respondent's Obligation: Required to obtain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Steven Mullen,

Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2022–24312 Filed 11–7–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/ A0A501010.999900]

Request for Nominations of Members To Serve on the Bureau of Indian Education Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for nominations.

SUMMARY: Pursuant to the Federal Advisory Committee Act and the Individuals with Disabilities Education Act of 2004 (IDEA), the Bureau of Indian Education (BIE) requests nominations of individuals to serve on the Advisory Board for Exceptional Children (Advisory Board). There will be six positions available. Board members shall serve a staggered term of two or three years from the date of their appointment. The BIE will consider nominations received in response to this request for nominations, as well as other sources.

DATES: Please submit a complete application form and a copy of the nominee's resume or curriculum vitae by December 23, 2022.

ADDRESSES: Please submit nominations to Ms. Jennifer Davis, Designated Federal Officer (DFO), Bureau of Indian Education, Division of Performance and Accountability, 2600 N Central Ave., Suite 800, Phoenix, AZ 85004, or email to *jennifer.davis@bie.edu* or Fax to (602) 265–0293.

FOR FURTHER INFORMATION CONTACT: Jennifer Davis, DFO, *jennifer.davis@bie.edu;* (202) 860–7845. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

SUPPLEMENTARY INFORMATION: The Advisory Board was established in accordance with the Federal Advisory Committee Act, Public Law 92–463. The following provides information about the Committee, the membership and the nomination process.

1. Objective and Duties

(a) Members of the Advisory Board will provide guidance, advice and recommendations with respect to special education and related services for children with disabilities in BIE funded schools in accordance with the requirements of IDEA;

(b) The Advisory Board will: (1) Provide advice and recommendations for the coordination of services within the BIE and with other local, State and Federal agencies; (2) Provide advice and recommendations on a broad range of policy issues dealing with the provision of educational services to American Indian children with disabilities; (3) Serve as advocates for American Indian students with special education needs by providing advice and recommendations regarding best practices, effective program coordination strategies, and recommendations for improved educational programming; (4) Provide advice and recommendations for the preparation of information required to be submitted to the Secretary of Education under 20 U.S.C. 1411(h)(2); (5) Provide advice and recommend policies concerning effective inter/intra agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities; and (6) Will report and direct all correspondence to the Assistant Secretary—Indian Affairs through the Director, BIE with a courtesy copy to the Designated Federal Officer (DFO).

2. Membership

(a) Pursuant to 20 U.S.C. 1411(h)(6), the Advisory Board will be composed of up to fifteen individuals involved in or concerned with the education and provision of services to American Indian infants, toddlers, children, and youth with disabilities. The Advisory

Board composition will reflect a broad range of viewpoints and will include at least one member representing each of the following interests: American Indians with disabilities; teachers of children with disabilities; American Indian parents or guardians of children with disabilities; service providers; state education officials; local education officials; state interagency coordinating councils (for states having Indian reservations); tribal representatives or tribal organization representatives; and other members representing the various divisions and entities of the BIE.

(b) The Assistant Secretary—Indian Affairs may provide the Secretary of the Interior recommendations for the chairperson; however, the chairperson and other Advisory Board members will be appointed by the Secretary of the Interior. Advisory Board members shall serve staggered terms of two years or three years from the date of their appointment.

3. Miscellaneous

(a) Members of the Advisory Board will not receive compensation, but will be reimbursed for travel, including subsistence, and other necessary expenses incurred in the performance of their duties in the same manner as persons employed intermittently in Government Service under 5 U.S.C. 5703.

(b) A member may not participate in matters that will directly affect, or appear to affect, the financial interests of the member or the member's spouse or minor children, unless authorized by the appropriate ethics official. Compensation from employment does not constitute a financial interest of the member so long as the matter before the committee will not have a special or distinct effect on the member or the member's employer, other than as part of a class. The provisions of this paragraph do not affect any other statutory or regulatory ethical obligations to which a member may be subject.

(c) The Advisory Board meets at least twice a year, budget permitting, but additional meetings may be held as deemed necessary by the Assistant Secretary—Indian Affairs or the DFO.

(d) All Advisory Board meetings are open to the public in accordance with the Federal Advisory Committee Act regulations.

4. Nomination Information

(a) Nominations are requested from individuals, organizations, and federally recognized tribes, as well as from State Directors of Special Education (within the 23 states in which BIE-funded schools are located) concerned with the education of Indian children with disabilities as described above.

(b) Nominees should have expertise and knowledge of the issues and/or needs of American Indian children with disabilities. Such knowledge and expertise are needed to provide advice and recommendations to the BIE regarding the needs of American Indian children with disabilities.

(c) A summary of the candidates' qualifications (resume or curriculum vitae) must be included with a completed nomination application form, which is located on the Bureau of Indian Education website. Nominees must have the ability to attend Advisory Board meetings, carry out Advisory Board assignments, participate in teleconference calls, and work in groups.

(d) The Department of the Interior is committed to equal opportunities in the workplace and seeks diverse Committee membership, which is bound by Indian Preference Act of 1990 (25 U.S.C. 472).

5. Basis for Nominations

If you wish to nominate someone for appointment to the Advisory Board, please do not make the nomination until the person has agreed to have his or her name submitted to the BIE for this purpose. A person can also self-nominate.

6. Nomination Application

Please submit a complete application form and a copy of the nominee's resume or curriculum vitae to the DFO by the date listed in the **DATES** section of this notice. The nomination application form can be found at *https://www.bie.edu/sites/default/files/inline-files/Advisory-Board-Membership-Nomination-Form%20%28Expires%206-30-24%29.pdf* on the BIE website.

Information Collection

This collection of information is authorized by OMB Control Number 1076–0179 with a June 30, 2024 expiration date.

Authority: 5 U.S.C. appendix 5; 20 U.S.C. 1400 *et seq.*

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–24371 Filed 11–7–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–34832; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before October 29, 2022, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by November 25, 2022.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 29, 2022. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers.

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

ALABAMA

Shelby County

Shoal Creek Club, 100 New Williamsburg Dr., Shoal Creek, SG100008439

CALIFORNIA

Los Angeles County

Miracle Mile Apartments Historic District, Roughly bounded by West 3rd St. (alley to south), South La Brea Ave., Wilshire and, Hauser Blvds., and West 6th St., Los Angeles, SG100008438

Sierra County

Ramelli Dairy Ranch, 100 Green Gulch Rd., Chilcoot vicinity, SG100008443

Sonoma County

Fort Ross Landing Historical and Archaeological District (Northern California Doghole Ports Maritime Cultural Landscape MPS), Address Restricted, Jenner, MP100008442

MICHIGAN

Kalamazoo County

Upjohn Company Office Building, 301 John St., Kalamazoo, SG100008450

MISSOURI

Jackson County

Anderson Electric Car Company Building, 3240 Main St., Kansas City, SG100008447
ABC Storage & Van Company Warehouse B, 3244 Main St., Kansas City, SG100008448

Pettis County

Yount, Thomas and Mildred, House, 1809 West Third St., Sedalia, SG100008449

MONTANA

Lewis and Clark County

Morelli Bridge, Head of Reeder's Alley on Howie St., Helena, SG100008436

OHIO

Fairfield County

Wagnalls Memorial, 150 SE Columbus St., Lithopolis, SG100008437

Trumbull County

Dunlap-Burnett-Moss House, 1499 Burnett St. (Twp. Hwy. 158), Mineral Ridge, SG100008444

OKLAHOMA

Oklahoma County

St. Ann's Home for the Aged, 3825 NW 19th St., Oklahoma City, SG100008453

WASHINGTON

King County

Wallingford-Meridian Streetcar Historic District (Historic Residential Suburbs in the United States, 1830–1960 MPS), Roughly bounded by North and NE 50th St., 5th Avenue NE, NE 45th and North 46th Sts., and Interlake Ave. North, Seattle, MP100008441

WISCONSIN

Fond Du Lac County

Palm Tree Road Bridge, Palm Tree Rd. over the Sheboygan R., Marshfield, SG100008451

Additional documentation has been received for the following resources:

NEW YORK

Orange County

Bodine's Tavern (Additional Documentation), 2 Bodine Tavern Rd., Montgomery, AD16000307
Mountainville Grange Hall (Additional Documentation) (Cornwall MPS), NY 32, south of jct. with Creamery Rd., Cornwall, AD96000557

SOUTH DAKOTA

Minnehaha County

Cathedral Historic District (Additional Documentation), Bounded by West 4th, West 10th and West 6th Sts., Spring, Prairie, and Summit Aves., Sioux Falls, AD74001896

Authority: Section 60.13 of 36 CFR part 60.

Dated: November 2, 2022.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2022–24374 Filed 11–7–22; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–22–046]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 9, 2022 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436 Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–558 and 731–TA–1316 (Review)(1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China). The Commission currently is scheduled to complete and file its determinations and views on November 18, 2022.
5. Outstanding action jackets: none.

CONTACT PERSON FOR MORE INFORMATION: William Bishop, Supervisory Hearings and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 2, 2022.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2022–24426 Filed 11–4–22; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–22–047]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 10, 2022 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–682 and 731–TA–1592–1593 (Preliminary)(Freight Rail Couplers and Parts Thereof from China and Mexico). The Commission currently is scheduled to complete and file its determinations on November 14, 2022; views of the Commission currently are scheduled to be completed and filed on November 21, 2022.
5. Outstanding action jackets: none.

CONTACT PERSON FOR MORE INFORMATION: William Bishop, Supervisory Hearings and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 31, 2022.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2022–24427 Filed 11–4–22; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Utility Broadband Alliance, Inc.

Notice is hereby given that, on September 22, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Utility Broadband Alliance, Inc. (''UBBA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lockard & White, College Station, TX; PowerTrunk, Jersey City, NJ; One-Layer, Lexington, MA; Ubiik, Santa Clara, CA; Select Spectrum, McLean, VA; Sentient Energy, Frisco, TX; Florida Power & Light, Jupiter, FL; Pacific Gas & Electric, Fresno, CA; Oklahoma Gas & Electric, Oklahoma City, OK; Digi, Hopkins, MN; and Druid Software, Bray, IRELAND, have been added as parties to this venture.

Also, Blinq Network, Markham, CANADA; ATT Business, Dallas, TX; K and A Engineering, White Plains, NY; and Aetheros Inc., San Francisco, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UBBA intends to file additional written notifications disclosing all changes in membership.

On May 4, 2021, UBBA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 10, 2021 (86 FR 30981).

The last notification was filed with the Department on June 24, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 1, 2022 (87 FR 47005).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24253 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The National Advanced Mobility Consortium, Inc.

Notice is hereby given that, on October 17, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The National Advanced Mobility Consortium, Inc. (''NAMC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, American Engineering & Manufacturing Inc, Elyria, OH; American Material Handling, Inc., Watkinsville, GA; and Ametek | Spectro Scientific, Chelmsford, MA; Ametrine, Inc, Rockville, MD; AOM Engineering Solutions LLC, Dearborn Heights, MI; Array of Engineers, Grand Rapids, Mil; ATAP Inc, Eastaboga, AL; B&H International LLC, Bakersfield, CA; Beacon Interactive Systems, LLC, Waltham, MA; BH Technology LLC, Pomona, NY; Bokam Engineering Inc, Santa Ana, CA; Bounce Imaging, Buffalo, NY; Compass Instruments, Inc., Sugar Grove, IL; Compusult Systems Inc., Chantilly, VA; DataRobot, Boston, MA; Decisive Edge LLC, Bradenton, FL; Dynamic Software Solutions, Niceville, FL; Enginuity Power Systems, Alexandria, VA; Falex Corporation, Sugar Grove, IL; FIDELIUM, LLC, Virginia Beach, VA; Future Tense LLC dba CalypsoAI Labs, Richmond, VA; GaN Corporation, Huntsville, AL; GC Associates USA LLC, Arlington, VA; GTA Containers, South Bend, IN; Hypergiant Galactic Systems, Inc., Austin, TX; Indiana Mills & Manufacturing, Inc. (IMMI), Westfield, IN; Insight International Technology LLC, Huntsville, AL; Intelligent Fusion Technology, Inc., Germantown, MD; Iten Defense LLC, Ashtabula, OH; Kevin Diaz, Niceville, FL; Kongsberg Protech Systems USA Corporation, Johnstown, PA; krtkl inc., San Francisco, CA; L3Harris Technologies | Link Training & Simulation, ARLINGTON, TX; L3 Technologies Inc. Communication Systems West Operating, Salt Lake City, UT; Leading Technology Composites, Wichita, KS; Logistic Services International, Inc., Jacksonville, FL; Merrill Aviation & Defense, Saginaw, MI; Northrop Grumman Systems Corporation, Linthicum Heights, MD; O'Gara-Hess & Eisenhardt Armoring Company LLC, Fairfield, OH; Patriot Products Inc, Franklin, IN; QinetiQ, Inc., Lorton, VA; Qualtech Systems, Inc., Rocky Hill, CT; Rajant Corporation, Malvern, PA; Real-Time Analyzers, Inc., Middletown, CT; Red Berry Innovations, Inc., Springfield, NE; Robotire, Inc., Canton, MI; Secmation, LLC, Raleigh, NC; Sekai Electronics, Inc., Irvine, CA; ServiceNow, Santa Clara, CA; Siemens Government Technologies, Inc., Reston, VA; Silicon Forest Electronics, Vancouver, WA; Solar Stik Inc., Saint Augustine, FL; SparkCognition Government Systems, Inc., Austin, TX; Tangram Flex, Dayton, OH; Telefactor Robotics, West Conshohocken, PA; The Will-Burt Company, Orrville, OH; Ultra Electronics ICE, Inc., Manhattan, KS; Vertex Aerospace LLC, Madison, MS; VISIMO, Coraopolis, PA; Wescam USA, Inc, Santa Rosa, CA; and ZMicro Inc, San Diego, CA, have been added as parties to this venture.

Also, Acellent Technologies Inc., Sunnyvale, CA; Advanced Ground Information Systems (AGIS), Inc., Jupiter, FL; Aeryon Defense USA, Inc., Denver, CO; Agility Robotics Inc., Pittsburgh, PA; ANSYS, Inc. *(formerly DfR Solutions LLC),* Canonsburg, PA; Aquabotix Technology Corporation, Jamestown, RI; Arconic Defense Inc. *(formerly Alcoa Defense Inc.),* Canonsburg, PA; Ascent Vision Technologies, LLC, Belgrade, MT; Auctus Blue LLC, Saint Petersburg, FL; Aurora Flight Sciences Corporation, Manassas, VA; Automotive Insight, LLC, Troy, MI; Autonomous Solutions, Inc., Mendon, UT; Baker Engineering, LLC, Nunica, MI; Ball Aerospace, Fairborn, OH; Battelle Energy Alliance LLC, Idaho Falls, ID; Battelle Memorial Institute, Columbus, OH; Black Diamond Structures, LLC, Austin, TX; Blue Force Technologies, Inc., Morrisville, NC; Chemring Sensors & Electronic Systems *(formerly NIITEK, Inc.),* Charlotte, NC; CIGNYS, Saginaw, MI; Coda Octopus Colmek, Inc., Murray, UT; CogniTech Corporation, Salt Lake City, UT; Continental Mapping, Sun Prairie, WI; Continuous Solutions LLC, Portland, OR; Convergent3D, LLC, Mount Pleasant, SC; Danlaw Inc., Novi, MI; Defense Acquisition & Contracting Solutions LLC (DACS), Southport, NC; Design Automation Associates, Inc., Windsor Locks, CT; Dynamic Software Solutions, Inc. (DS2), Niceville, FL; Eckhart, Deerfield, IL; Envision Technology, LLC, Manchester, NH; Flex Force Enterprises Inc., Portland, OR;

Flugauto Inc., Brighton, MI; Gentex Corporation, Boston, MA; Geodetics, Inc., San Diego, CA; GLX Power Systems Inc., Chargin Falls, OH; Great Lakes Waterjet and Laser, Albion, MI; Hippo Power LLC, Riverside, MO; Honeybee Robotics, New York, NY; Honeycomb Networks, Inc., Grant, AL; HORIBA Instruments, Inc., Ann Arbor, MI; Iguana Technology LLC, Tillamook, OR; Innovative Manufacturing Engineering LLC (I:ME), Livonia, MI; Intevac Photonics, Inc., Santa Clara, CA; JTEK Data Solutions, LLC, Bethesda, MD; Kairos Autonomi, Inc., Sandy, UT; L3 Technologies, Inc. (Communication Systems-West), Salt Lake City, UT; LINE–X LLC, Houston, TX; MAHLE Industrial Thermal Systems America LP, Belmont, MI; Manufacturing Techinques, Inc. MTEQ, Lorton, VA; Maritime Applied Physics Corporation, Baltimore, MD; Martin Defense Group LLC (formerly Navatek, LLC), Honolulu, HI; Mattracks, Inc., Karlstad, MN; Mawashi Science & Technology, Cape Coral, FL; MBD Prop, Farmington, MI; McLaughlin Body Company, Moline, IL; MGS Incorporated, Denver, PA; Morgan 6 LLC, Charleston, SC; Motiv Space Systems, Inc., Pasadena, CA; MRIGlobal Kansas City, MO; New Frontier Aerospace, Livermore, CA; NewSoTech, Inc., Ashburn, VA; Parsons Government Services, Inc., Pasadena, CA; Parts Life Inc., Moorestown, NJ; Peregrine Technical Solutions, LLC, Yorktown, VA; Phoenix Integration Inc., Novi, MI; Polymule, Inc., Lehi, UT; Protective Technologies Group, Inc., Fallbrook, CA; Ravn, San Francisco, CA; Rhoman Aerospace Corporation, Los Angeles, CA; Riptide Software, Oviedo, FL; Rose-A-Lee Technologies, Inc., Sterling Heights, MI; Sciaky, Chicago, IL; Sea Machine Robotics, East Boston, MA; SEA, Ltd., Columbus, OH; Secord Solutions LLC, Grosse Ile, MI; Seiler Instrument, St. Louis, MO; Shift5, Inc., Rosslyn, VA; Sixgen, Inc., Annapolis, MD; South Dakota School of Mines and Technology, Rapid City, SD; ST Engineering North America Government, Huntsville, AL; Stark Aerospace, Columbus, MS; STS International, Inc., Berkeley Springs, WV; Subsystem Technologies Inc., Arlington, VA; Supreme Gear Company, Inc., Fraser, MI; Tactonomy, Huntsville, AL; Teledyne Brown Engineering, Inc., Huntsville, AL; Telefactor Robotics LLC, West Conshohocken, PA; The Advent Group, LLC (TAG), Pontiac, MI; The Spectrum Group LLC, Alexandria, VA; Tribalco, LLC, Bethesda, MD; Troika Solutions, LLC, Reston, VA; Tuskegee University, Tuskegee, AL; UHV Technologies, Inc., Lexington, KY; United CNC Machining, Auburn Hills, MI; University of Arkansas, College of Engineering, Fayetteville, AR; University of Iowa, Iowa City, IA; University of Wisconsin-Milwaukee, Milwaukee, WI; Vecna Technologies, Inc., Cambridge, MA; Womack Machine Supply Company, Farmers Branch, TX; Wyle Laboratories, Inc., Huntsville, AL; xCraft Enterprises, Inc., Coeur d/Alene, ID; and Yates Industries, Inc., St Clair Shores, MI, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAMC intends to file additional written notifications disclosing all changes in membership.

On October 15, 2009, NAMC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 30, 2009 (74 FR 62599).

The last notification was filed with the Department on November 5, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 26, 2021 (86 FR 67494–67495).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24268 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International Standards

Notice is hereby given that on September 22, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ASTM International (''ASTM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM activities originating between May 18, 2022, and September 13, 2022, designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at *http://www.astm.org.*

On September 15, 2004, ASTM filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 2004 (69 FR 65226). The last notification with the Department was filed on May 23, 2022. A notice was filed in the **Federal Register** on March 11, 2022 (87 FR 14043).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24249 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bytecode Alliance Foundation

Notice is hereby given that, on October 17, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Bytecode Alliance Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Anaconda, Inc., Austin, TX; Candle, Atlanta, GA; and Cisco Systems Inc., San Jose, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Bytecode Alliance Foundation intends to file additional written notifications disclosing all changes in membership.

On April 20, 2022, Bytecode Alliance Foundation filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 2022 (87 FR 29379).

The last notification was filed with the Department on July 12, 2022. A notice was published in the **Federal**

Register pursuant to section 6(b) of the Act on August 1, 2022 (97 FR 47005).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24262 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical CBRN Defense Consortium

Notice is hereby given that, on October 6, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical CBRN Defense Consortium (''MCDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adaptive Phage Therapeutics, Inc., Gaithersburg, MD; Amentum Services, Inc., Germantown, MD; Benevira, Inc., New York, NY; Domenix Corporation, Chantilly, VA; International Business Machines Corporation, Yorktown Heights, NY; Rajant Corporation, Malvern, PA; SGSD Partners LLC, Washington, DC; The Washington University, Saint Louis, MO; and Zymeron Corporation, Durham, NC have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MCDC intends to file additional written notifications disclosing all changes in membership.

On November 13, 2015, MCDC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 6, 2016 (81 FR 513).

The last notification was filed with the Department on July 6, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 30, 2022 (87 FR 53005).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24273 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gap Year Association

Notice is hereby given that on September 26, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Gap Year Association (GYA) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the 2023 Gap Year Program Standards have been ratified by GYA's Standards and Accreditations Committee.

On June 6, 2012, GYA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 6, 2012 (77 FR 40085).

The last notification was filed with the Department on January 17, 2018. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 12, 2018 (83 FR 6051).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24251 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on October 17, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FIAtec GmbH, Magdeburg, GERMANY; Hermary, Coquitlam, BC, CANADA; plating electronic GmbH, Sexau, GERMANY; Kinova Robotics, Boisbriand, QC, CANADA; Converting Equipment International, Columbia Falls, MT; Encoder Products Company, Sagle, ID; and KYOWA ELECTRONIC INSTRUMENTS CO., LTD., Tokyo, JAPAN, have been added as parties to this venture.

Also, Thorsis Technologies, Magdeburg, GERMANY; and YJS Co., Ltd., Bucheon City, Gyeonggi-Do, SOUTH KOREA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on July 12, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 1, 2022 (87 FR 47004–47005).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24270 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on October 18, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. (''PXI Systems'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its

membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Technical Software Engineering Plazotta GmbH, Wolnzach, GERMANY, has been added as a party to this venture.

Also, Aerospace Systems Design Bureau JSC, Dubna City, Moscow Region, RUSSIA; Sichuan Jovian Test & Control Technology, Sichuan, PEOPLE'S REPUBLIC OF CHINA; and SMH Technologies Srl, Villotta PN, ITALY, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 3, 2001 (66 FR 13971).

The last notification was filed with the Department on May 6, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 31, 2022 (87 FR 32461).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24263 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—America's Datahub Consortium

Notice is hereby given that, on October 11, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), America's Datahub Consortium (''ADC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASC Gp, Inc. (DBA ASC Group, Inc.), Huntsville, AL; Candelytics, Cerritos, CA; Data.world, Inc., Austin, TX; General Dynamics Information Technology, Inc., Falls Church, VA; Grist Mill Exchange LLC, Reston, VA; Kinnami Software Corporation, Braintree, MA; Knexus Research Corp., Manassas, VA; LifeScale Analytics Inc, Little Canada, MN; Mechanismic, Inc., Dix Hills, NY; Mercury Systems, Inc., Andover, MA; Redivis, Inc., West Hollywood, CA; Synectics for Management Decisions, Inc., Arlington, VA; and University of California—California Policy Lab, Berkeley, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ADC intends to file additional written notifications disclosing all changes in membership.

On November 11, 2021, ADC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 22, 2021 (86 FR 72628).

The last notification was filed with the Department on June 10, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 1, 2022 (87 FR 47008).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24258 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Execution of Rendezvous and Servicing Operations

Notice is hereby given that, on October 10, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Consortium for Execution of Rendezvous and Servicing Operations (''CONFERS'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Space Dynamics Laboratory, Logan, UT; Caylan Space, Inc., San Jose, CA; and Blue Origin, LLC, Kent, WA have been added as parties to this venture.

Trensipo, Inc., Hayward, CA and Honeybee Robotics, Brooklyn, NY have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CONFERS intends to file additional written notifications disclosing all changes in membership.

On September 10, 2018, CONFERS filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 19, 2018 (83 FR 53106).

The last notification was filed with the Department on July 26, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 30, 2022 (87 FR 53007).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24259 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Rust Foundation

Notice is hereby given that, on October 3, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Rust Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, JFrog Inc, Sunnyvale, CA; Matter Labs, George Town, CAYMAN ISLANDS; and TSY Capital Limited, Central, Hong Kong, HONG KONG SAR, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Rust Foundation intends to file additional

written notifications disclosing all changes in membership.

On April 14, 2022, Rust Foundation filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 2022 (87 FR 29384).

The last notification was filed with the Department on July 11, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 1, 2022 (87 FR 47006).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24252 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Maritime Sustainment Technology and Innovation Consortium

Notice is hereby given that, on October 5, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Maritime Sustainment Technology and Innovation Consortium (''MSTIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced internet Marketing dba The GBS Group, Virginia Beach, VA; Airborne Data Imaging Group, Inc., Flourtown, PA; Amentum Services, Inc., Germantown, MD; AURA Technologies LLC, Raleigh, NC; Cignal LLC, Reedsville, PA; Curtiss-Wright Electro-Mechanical Corporation, Cheswick, PA; EMS Development Corporation, Yaphank, NY; L3 Technologies, Inc., Systems Company, Camden, NJ; LOWEN Marine and Industrial, LLC, Willow Grove, PA; Rada Technologies LLC, Germantown, MD; Rockwell Automation, Cleveland, OH; Sedna Digital Solutions LLC, Manassas, VA; Systel, Incorporated, Sugar Land, TX; Teledyne Brown Engineering, Inc., Huntsville, AL; and Telesto Group LLC, West Palm Beach, FL, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSTIC intends to file additional written notifications disclosing all changes in membership.

On October 21, 2020, MSTIC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 19, 2020 (85 FR 73750).

The last notification was filed with the Department on July 7, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 1, 2022 (87 FR 47004).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24256 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program

Notice is hereby given that, on October 24, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Shipbuilding Research Program (''NSRP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Vigor Marine, LLC., Portland, OR, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSRP intends to file additional written notifications disclosing all changes in membership.

On March 13, 1998, NSRP filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 29, 1999 (64 FR 4708).

The last notification was filed with the Department on April 13, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 2022 (87 FR 29381).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24265 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—NASGRO

Notice is hereby given that, on October 3, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute: Cooperative Research Group on Consortium for NASGRO Development and Support (''NASGRO'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its nature and objective. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Sierra Space Corporation, Louisville, CO, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NASGRO intends to file additional written notifications disclosing all changes in membership.

On October 3, 2001, NASGRO filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 22, 2002 (67 FR 2910).

The last notification was filed with the Department on July 14, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 12, 2022 (87 FR 55853).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24267 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Information Warfare Research Project Consrotium

Notice is hereby given that, on October 14, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Information Warfare Research Project Consortium (''IWRP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 8 Consulting LLC, Luray, VA; Alirrium LLC, Reston, VA; Anacomp, Inc., Chantilly, VA; Avum, Inc., Agoura Hills, CA; Bowler Pons Solutions Consultants LLC, Annapolis, MD; Breault Research Organization, Tuscon, AZ; Bronze Bear Communications, Inc. dba FlexRadio, Austin, TX; Capstone Research Corporation, Madison, AL; Carnegie Mellon University, Pittsburgh, PA; Datron World Communications, Inc., Vista, CA; Elevate Group LLC dba Elevate Technology Solutions, Qunicy, MA; Epsilon C5I, Inc., San Diego, CA; Fibertek, Inc., Herndon, VA; Mid-America Applied Technologies Corp., Chagrin Falls, OH; Murano Corp., Research Triangle Park, NC; Norwich University Applied Research Institutes, Ltd., Northfield, VT; Nu Wave Ltd., Middletown, OH; Rancher Federal, Inc., Reston, VA; Raven Defense Corporation, Albuquerque, NM; Submergence Group LLC, Cedar Park, TX; Syntonics LLC, Columbia, MD; Tapestry Solutions, Inc., San Diego, CA; ThinKom Solutions, Inc., Hawthorne, CA; and VES LLC, Aberdeen Proving Ground, MD have been added as parties to this venture.

Also, American Defense International, Inc., West Tower, DC; AMP Research, Inc., Naples, FL; Digital Receiver Technology, Germantown, MD; Dynamic Data Management, Inc. dba Delta Bravo, Rock Hill, SC; Enveil, Inc., Fulton, MD; Galorath Federal, Inc., Alexandria, VA ; Genesis Dimensions LLC, Houston, TX; IMPRES Technology Solutions, Inc., Santa Fe Springs, CA; iXBlue Defense System, Inc., Lincoln, RI; QRC LLC dba QRC Technologies, Fredericksburg, VA; SecureLogix Corp., San Antonio, TX; TrueTandem LLC, Herndon, VA; and Welkins LLC, Downers Grove, IL have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IWRP intends to file additional written notifications disclosing all changes in membership.

On October 15, 2018, IWRP filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 23, 2018 (83 FR 53499).

The last notification was filed with the Department on July 29, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 30, 2022 (87 FR 53008).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24260 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Undersea Technology Innovation Consortium

Notice is hereby given that, on October 5, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Undersea Technology Innovation Consortium (''UTIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, MRV Systems LLC, San Diego, CA; Greystones Consulting Group LLC, Washington, DC; Amentum Services, Inc., Germantown, MD; and Northrop Grumman Systems Corp., Plymouth, MN, have been added as parties to this venture.

Also, VivSoft Technologies LLC, Brambleton, VA; University of South Carolina, Columbia, SC; University of Delaware, Newark, DE; United Aircraft Technologies, Inc., Troy, NY; SeaRobotics Corp., Stuart, FL; R2C Support Services LLC, Huntsville, AL; The Pennsylvania State University, State College, PA; Numurus LLC, Seattle, WA; MaXentric Technologies LLC, Fort Lee, NJ; Marotta Controls, Inc., Montville, NJ; Lyman Morse Boatbuilding, Inc., Thomaston, ME; Leapfrog AI, Inc., Colorado Springs, CO; Inertial Labs, Inc., Paeonian Springs, VA; I/O Marine Systems, Inc., New Orleans, LA; Foster-Miller, Inc., dba QinetiQ North America, Waltham, MA; Cesium GS, Inc., Philadelphia, PA; Btech Acoustics LLC, Barrington, RI; Attollo LLC, Lincoln, RI; and American Defense International, Washington, DC, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UTIC intends to file additional written notifications disclosing all changes in membership.

On October 9, 2018, UTIC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 2, 2018 (83 FR 55203).

The last notification was filed with the Department on July 7, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 1, 2022 (87 FR 47007).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24257 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Institute of Electrical and Electronics Engineers, Inc.

Notice is hereby given that, on June 27, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Institute of Electrical and Electronics Engineers, Inc. (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 33 new standards have been initiated and 19 existing standards are being revised. More detail regarding these changes can be found at: *https://standards.ieee.org/about/sasb/sba/sep2022/.*

On September 17, 2004, IEEE filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on March 29, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 7, 2022.

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24254 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—MLCommons Association

Notice is hereby given that, on October 14, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), MLCommons Association (''MLCommons'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Tzu-Sheng Kuo, Pittsburgh, PA; and David Aponte, Long Valley, NJ, have been added as parties to this venture.

Also, Centaur Technology, Inc., Austin, TX; and Horizon Robotics Inc., Cupertino, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MLCommons intends to file additional written notifications disclosing all changes in membership.

On September 15, 2020, MLCommons filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 29, 2020 (85 FR 61032).

The last notification was filed with the Department on July 25, 2022. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 30, 2022 (87 FR 53003).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24264 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical Technology Enterprise Consortium

Notice is hereby given that, on October 7, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical Technology Enterprise Consortium (''MTEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, A10 Systems LLC dba Airanaculus, Chelmsford, MA; Alira Health Boston LLC, Framingham, MA; Apogee Solutions, Inc., Chesapeake, VA; Articulate Labs, Dallas, TX; Aspen Medical USA, San Antonio, TX; Azture, Inc., La Jolla, CA; Brimrose Technology Corp., Sparks, MD; Conseqta Technology, Arlington, VA; Daxor Corp., Oak Ridge, TN; Decisive Point Group, Beacon, NY; Elite Performance & Learning Center, PS, Seattle, WA; Endoluxe, Inc., Dunwoody, GA; Fort Defiance Industries LLC, Loudon, TN; Geometric Data Analytics, Durham, NC; Georgia Tech Applied Research Corp., Atlanta, GA; Icarus Medical LLC, Charlottesville, VA; Ichor Sciences LLC, Nashville, TN; Inovio, Plymouth Meeting, PA; Jaw Joint Science Institute, Philadelphia, PA; Legacy US, Inc., Boise, ID; Linshom Medical, Inc., Ellicott City, MD; Modulated Imaging, Inc., Irvine, CA; Orthopedic Wellness Laboratories, Woodinville, WA; OrthoTreat Ltd., Tel Aviv Jaffa, ISR Ouraring, Inc., San Francisco, CA; Prohuman Technologies, Concord, NC; Tunnell Consulting, Inc., Bethesda, MD; UtopiaCompression Corp., Los Angeles, CA; and Weinberg Medical Physics, Inc., North Bethesda, MD have been added as parties to this venture.

Also, Leo Mora Therapy Services, PLLC, Killeen, TX, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MTEC intends to file additional written notifications disclosing all changes in membership.

On May 9, 2014, MTEC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on July 15, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2022 (87 FR 56089).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24272 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on October 14, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Spectrum Consortium (''NSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ampersand Solutions Group, Inc., Huntsville, AL; Pi Radio, Inc., Brooklyn, NY; BAE Systems Technology Solutions and Services, Inc., Rockville, MD; SOC LLC, Chantilly, VA; SGSD Partners LLC, Washington, DC; Macom Technology Solution, Inc., Lowell, MA; Telesto Group LLC, West Palm Beach, FL; Resonant Sciences LLC, Dayton, OH; Rebel Space Technologies, Inc., Long Beach, CA; Broadband Antenna Tracking Systems, Inc., Indianapolis, IN; STAR Dynamics Corp., Hilliard, OH; Fairwinds Technologies LLC, Annapolis, MD; and L3Harris Aeromet, Tulsa, OK, have been added as parties to this venture.

Also, Pinnacle Solutions, Inc., Huntsville, AL; Sertainty Corp., Nashville, TN; Spectrum Center Government Services LLC, McLean, VA; Ascension Engineering Group LLC, Colorado Springs, CO; Ciena Government Solutions, Inc., Hanover, MD; Everactive, Inc., Santa Clara, CA; Zin Solutions, Inc. dba Axiom Towers, Tulsa, OK; Bridge 12 Technologies, Inc., Framingham, MA; and Baker Street Scientific, Inc., Marietta, GA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 23, 2014, NSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 4, 2014 (79 FR 65424).

The last notification was filed with the Department on July 8, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 1, 2022 (87 FR 47008).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24274 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Institute of Electrical and Electronics Engineers, Inc.

Notice is hereby given that, on October 5, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Institute of Electrical and Electronics Engineers, Inc. (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 33 new standards have been initiated and 19 existing standards are being revised. More detail regarding these changes can be found at: *https://standards.ieee.org/about/sasb/sba/sep2022/.*

On September 17, 2004, IEEE filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 3, 2004 (69 FR 64105). The last notification was filed with the Department on June 27, 2022.

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24255 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Integrated Photonics Institute for Manufacturing Innovation Operating Under the Name of The American Institute for Manufacturing Integrated Photonics

Notice is hereby given that, on October 27, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Integrated Photonics Institute for Manufacturing Innovation operating under the name of the American Institute for Manufacturing Integrated Photonics (''AIM Photonics'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AAYUNA, Inc., Allentown, PA; TEL Technology Center, America, LLC, Albany, NY; and The Aerospace Corporation, El Segundo, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AIM Photonics intends to file additional written notifications disclosing all changes in membership.

On June 16, 2016, AIM Photonics filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 2016 (81 FR 48450).

The last notification was filed with the Department on August 8, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2022 (87 FR 56090).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24269 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OPENJS Foundation

Notice is hereby given that, on October 17, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenJS Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Capital One Services, LLC, McLean, VA; and Platformatic Inc., San Francisco, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenJS Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, OpenJS Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on July 21, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 1, 2022 (87 FR 47005).

Catherine Reilly,

Counsel for Civil Operations, Antitrust Division.

[FR Doc. 2022–24271 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–37]

Nicky Shah, M.D.; Decision and Order

On June 29, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) filed an Order to Show Cause (hereinafter, OSC) issued to Nicky Shah, M.D. (hereinafter, Respondent). OSC, at 1. The OSC proposed the revocation of Respondent's Certificate of Registration No. BS6061345 at the registered address of 293 Corbett Ave., San Francisco, CA 94114. *Id.* The OSC alleged that Respondent's registration should be revoked because Respondent is ''without authority to handle controlled substances in the State of California, the state in which [he is] registered with DEA.'' *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).[1]

By email dated August 3, 2022, Respondent requested a hearing.[2] On August 23, 2022, the Government filed a Motion for Summary Disposition, which Respondent opposed. On September 13, 2022, the ALJ granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's registration and the denial of Respondent's request to renew his registration, finding that because Respondent lacks state authority to handle controlled substances in California, the state in which he is registered with DEA, there is no genuine issue of material fact. Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter, Recommended Decision or RD), at 5–6.

The Agency issues this Decision and Order based on the entire record before it, 21 CFR 1301.43(e), and makes the following findings of fact.

Findings of Fact

On April 2, 2020, an Administrative Law Judge from the State of California, Office of Administrative Hearings, issued a Proposed Decision revoking Respondent's California medical license. Government Exhibit (hereinafter, GX) B, at 2, 12. On May 13, 2020, the Medical Board of California issued a Decision adopting the Administrative Law Judge's Proposed Decision, effective June 12, 2020. *Id.* at 1.

According to California's online records, of which the Agency takes official notice, Respondent's state medical license is revoked.[3] Medical Board of California License Verification, *https://www.mbc.ca.gov/License-Verification* (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to engage in the practice of medicine in California, the state in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[4]

According to California statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Cal. Health & Safety Code section 11010 (West 2022). Further, a ''practitioner'' means a person ''licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in this state.'' *Id.* at section 11026(c).

Here, the undisputed evidence in the record is that Respondent lacks authority to practice medicine in California. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in California. Thus, because Respondent lacks authority to practice medicine in California and, therefore, is not authorized to handle controlled substances in California, Respondent is not eligible to maintain a DEA registration based in California. Accordingly, the Agency will order that Respondent's DEA registration be revoked and that Respondent's request for renewal of his registration be denied.[5]

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate

[1] According to Agency records, Respondent's Certificate of Registration No. BS6061345 expired on February 28, 2022, and Respondent's request for renewal of his registration was received on April 1, 2022.

[2] On August 8, 2022, Respondent filed an additional hearing request document that included a more detailed response to the OSC.

[3] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

[4] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR at 27617.

[5] Respondent argued that his registration should be renewed because prior to the issuance of the OSC, he had requested to renew his registration with a change of registered address to Iowa, where he maintains an unrestricted, active medical license and an Iowa controlled substance registration. Resp Opposition, at 4–6; *see also* RX B–D. As the ALJ stated ''[a]n attempt to modify the registered location of a [registration] is deemed an application for a new [registration].'' RD, at 5 (citing 21 CFR 1301.51(c); *Gazelle A. Craig, D.O.,* 83 FR 27628, 27631 (2018)). Here, the subject of the current proceeding is Respondent's Certificate of Registration No. BS6061345, not Respondent's eligibility for a new registration based in Iowa. As such, it is only of consequence whether Respondent has state authority to handle controlled substances in California, the state in which Certificate of Registration No. BS6061345 is based.

of Registration No. BS6061345 issued to Nicky Shah, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending applications of Nicky Shah, M.D., to renew or modify this registration, as well as any other pending application of Nicky Shah, M.D., for additional registration in California. This Order is effective December 8, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on November 1, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–24299 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

George M. Douglass, M.D.; Decision and Order

On June 28, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (hereinafter, OSC/ISO) to George M. Douglass, Jr., M.D., (hereinafter, Registrant) of Lake Oswego, Oregon. Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2 (OSC/ISO), at 1. The OSC/ISO informed Registrant of the immediate suspension of his DEA Certificate of Registration, Control No. BD5898575, pursuant to 21 U.S.C. 824(d), alleging that Registrant's continued registration constitutes ''‘an imminent danger to the public health or safety.’'' *Id.* The OSC/ISO also proposed the revocation of Registrant's registration, alleging that Registrant has ''committed such acts as would render [his] registration inconsistent with the public interest'' and that Registrant is ''without authority to handle controlled substances in Oregon, the state in which [he is] registered with DEA.''[1] *Id.* at 1, 3 (citing 21 U.S.C. 824(a)(4), 823(f), 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA dated September 20, 2022.[2]

I. Findings of Fact

On June 2, 2022, the Oregon Medical Board issued a Final Order Upon Default revoking Registrant's Oregon medical license. RFAAX 3, at 4, 7. According to Oregon's online records, of which the Agency takes official notice, Registrant's license is still revoked.[3] Oregon Medical Board Licensee Search, *https://omb.oregon.gov/search* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of medicine in Oregon, the state in which he is registered with the DEA.

The Agency further finds that the Government's evidence shows that Registrant continued to prescribe controlled substances after his Oregon medical license was revoked; he issued at least six controlled substance prescriptions from June 9–21, 2022. RFAAX 4.

II. Discussion

A. 21 U.S.C. 824(a)(3): Loss of State Authority

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).[4]

According to Oregon statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.'' Or. Rev. Stat. § 475.005(10) (2022). Further, a ''practitioner'' means a person ''licensed, registered or otherwise permitted by law to dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in [the] state.'' *Id.* at § 475.005(17).

Here, the undisputed evidence in the record is that Registrant has had his Oregon medical license revoked and thus lacks authority to practice medicine in Oregon. As discussed above, an individual must be a licensed practitioner to dispense a controlled

[1] The registered address of Registrant's DEA Certificate of Registration, Control No. BD5898575, is 17355 Boones Ferry Road, Suite C, Lake Oswego, Oregon 97035. *Id.* at 2.

[2] Based on a Declaration from a DEA Diversion Investigator, the Agency finds that the Government's service of the OSC/ISO on Registrant was adequate. RFAAX 3, at 2. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC/ISO and Registrant has neither requested a hearing nor submitted a written statement or corrective action plan and therefore has waived any such rights. RFAA, at 2; *see also* 21 CFR 1301.43 and 21 U.S.C. 824(c)(2).

[3] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

[4] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617.

substance in Oregon. Accordingly, the Agency finds that Registrant is unauthorized to handle controlled substances in Oregon, the state in which he is registered with the DEA.

B. 21 U.S.C. 823(f): The Five Public Interest Factors

Section 304(a) of the CSA provides that ''[a] registration . . . to . . . dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a). In making the public interest determination, the CSA requires consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(f).

The DEA considers these public interest factors in the disjunctive. *Robert A. Leslie, M.D.,* 68 FR 15,227, 15,230 (2003). Each factor is weighed on a case-by-case basis. *Morall* v. *Drug Enf't Admin.,* 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *David H. Gillis, M.D.,* 58 FR 37,507, 37,508 (1993). While the Agency has considered all of the public interest factors [5] in 21 U.S.C. 823(f), the Government's evidence in support of its *prima facie* case for revocation of Registrant's registration is confined to Factors One, Two, and Four. *See* RFAA, at 6–8. Moreover, the Government has the burden of proof in this proceeding. 21 CFR 1301.44.

Here, the Agency finds that the Government's evidence satisfies its *prima facie* burden of showing that Registrant's continued registration would be ''inconsistent with the public interest.'' 21 U.S.C. 824(f). The Agency further finds that Registrant failed to provide sufficient evidence to rebut the Government's *prima facie* case.

1. Factor One

In determining the public interest under Factor One, the Agency considers the recommendation of the appropriate State licensing board or professional disciplinary authority. Although the record evidence demonstrates that the Oregon Medical Board has not made a recommendation in the current matter, ''DEA has interpreted [F]actor [O]ne more broadly and thus considers disciplinary actions taken by a state board as relevant in the public interest determination when they result in a loss of state authority.'' *Kenneth Harold Bull, M.D.,* 78 FR 62,666, 62,672 (2013); *see also John O. Dimowo,* 85 FR 15,800, 15,809 (2020).

Here, the record shows that the Oregon Medical Board revoked Registrant's Oregon medical license and that Registrant's Oregon medical license has not since been restored. As such, the Agency finds that Factor One weighs against Registrant's continued registration.

2. Factors Two and Four

Evidence is considered under Public Interest Factors Two and Four when it reflects compliance (or non-compliance) with laws related to controlled substances and experience dispensing controlled substances. Established violations of the CSA, DEA regulations, or other laws regulating controlled substances at the state or local level are cognizable when considering whether continuing a registration is consistent with the public interest. *Kareem Hubbard, M.D.,* 87 FR 21,156, 21,162 (2022).

The Government has alleged that Registrant has violated both federal and Oregon state law regulating controlled substances. RFAAX 2 (OSC/ISO), at 3–4. According to the CSA's implementing regulations, a lawful controlled substance order or prescription is one that is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). Oregon law prohibits the practice of medicine in Oregon without a license. Or. Rev. Stat. § 677.080(4) (2022). Here, the record demonstrates that Registrant issued at least six controlled substance prescriptions after his Oregon medical license was revoked. This conduct clearly violated Oregon law and rendered Registrant's prescribing outside the usual course of professional practice. As such, the Agency sustains the Government's allegations that Registrant violated 21 CFR 1306.04(a) and Or. Rev. Stat. § 677.080(4).

In sum, the Agency finds that Factors One, Two, and Four weigh in favor of revocation of Registrant's registration and thus finds Registrant's continued registration to be inconsistent with the public interest in balancing the factors of 21 U.S.C. 823(f).

III. Sanction

Where, as here, the Government has established grounds to revoke Respondent's registration, the burden shifts to the respondent to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18,882, 18,910 (2018). When a registrant has committed acts inconsistent with the public interest, he must both accept responsibility and demonstrate that he has undertaken corrective measures. *Holiday CVS, L.L.C., dba CVS Pharmacy Nos 219 and 5195,* 77 FR 62,316, 62,339 (2012) (internal quotations omitted). Trust is necessarily a fact-dependent determination based on individual circumstances; therefore, the Agency looks at factors such as the acceptance of responsibility, the credibility of that acceptance as it relates to the probability of repeat violations or behavior, the nature of the misconduct that forms the basis for sanction, and the Agency's interest in deterring similar acts. *See, e.g., Robert Wayne Locklear, M.D.,* 86 FR 33,738, 33,746 (2021).

Here, Registrant did not request a hearing, submit a written statement, submit a corrective action plan, respond to the OSC/ISO, or otherwise avail himself of the opportunity to refute the Government's case. As such, Registrant has made no representations as to his future compliance with the CSA or made any demonstration that he can be trusted with a registration. The evidence presented by the Government clearly shows that Registrant violated the CSA and indicates that he cannot be entrusted.

Accordingly, the Agency will order the revocation of Registrant's registration.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C.

[5] As to Factor Three, there is no evidence in the record that Registrant has been convicted of an offense under either federal or state law ''relating to the manufacture, distribution, or dispensing of controlled substances.'' 21 U.S.C. 823(f)(3). However, as Agency cases have noted, there are a number of reasons why a person who has engaged in criminal misconduct may never have been convicted of an offense under this factor, let alone prosecuted for one. *Dewey C. MacKay, M.D.,* 75 FR 49,956, 49,973 (2010). Agency cases have therefore found that ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and is therefore not dispositive. *Id.* As to Factor Five, the Government's evidence fits squarely within the parameters of Factors One, Two, and Four and does not raise ''other conduct which may threaten the public health and safety.'' 21 U.S.C. 823(f)(5). Accordingly, Factor Five does not weigh for or against Registrant.

824(a), I hereby revoke DEA Certificate of Registration No. BD5898575 issued to George M. Douglass, Jr., M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending applications of George M. Douglass, Jr., M.D., to renew or modify this registration, as well as any other pending application of George M. Douglass, Jr., M.D., for additional registration in Oregon. This Order is effective December 8, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on November 1, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–24301 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1083]

Bulk Manufacturer of Controlled Substances Application: Chattem Chemicals, Inc.; Correction

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application; correction.

SUMMARY: The Drug Enforcement Administration (DEA) published a document in the **Federal Register** on October 11, 2022, concerning a notice of application that inadvertently did not include the controlled substance Cocaine (9041).

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** on October 11, 2022, in FR Doc No: 2022–21940 (87 FR 61368), on page 61368, in the second column, under **SUPPLEMENTARY INFORMATION**, controlled substance table, correct the table to include the following basic class of scheduled controlled substance:

Controlled substance	Drug code	Schedule
Cocaine	9041	II

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–24105 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–34]

Gerald M. Baltz, N.P.; Decision and Order

On June 3, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Gerald M. Baltz, N.P. (hereinafter, Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent's Certificate of Registration No. MB2171128 at the registered address of 8060 Melrose Ave., Ste. 200, Los Angeles, CA 90046. *Id.* at 1. The OSC alleged that Respondent's registration should be revoked because Respondent is ''without authority to handle controlled substances in the State of California, the state in which [he is] registered with DEA.'' *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).[1]

By letter dated July 11, 2022,[2] Respondent requested a hearing. On July 12, 2022, Administrative Law Judge Paul E. Soeffing (hereinafter, the ALJ) issued an Order for Evidence of Lack of State Authority and Directing the Government to File Evidence Regarding the Service of the Order to Show Cause (hereinafter, Briefing Order). On July 26, 2022, the Government filed its Submission of Evidence and Motion for Summary Disposition (hereinafter, Motion for Summary Disposition). On August 10, 2022,[3] Respondent filed his Opposition to Government's Motion for Summary Disposition (hereinafter, Opposition).[4]

On August 25, 2022, the ALJ granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's DEA registration, finding that because Respondent lacks authority to handle controlled substances in California, there is no genuine issue of material fact. Recommended Decision, at 6.[5]

The Agency issues this Decision and Order based on the entire record before it, 21 CFR 1301.43(e), and makes the following findings of fact.

Findings of Fact

On November 19, 2021, an Administrative Law Judge from the State of California, Office of Administrative Hearings, issued a Proposed Decision revoking Respondent's California nursing licenses. Government Exhibit (hereinafter, GX) C, at 45. On January 21, 2022, the State of California, Department of Consumer Affairs, Board of Registered Nursing (hereinafter, the Board), issued a Decision and Order adopting the Administrative Law Judge's Proposed Decision, effective February 18, 2022. *Id.* at 1. On February 24, 2022, the Board issued an Order Denying Reconsideration in which Respondent's request for reconsideration of the Proposed Decision was denied and the Board's January 21, 2022 Decision and Order was made effective February 28, 2022. GX B.

According to California's online records, of which the Agency takes official notice, Respondent's nursing licenses are revoked. [6] California DCA

[1] According to Agency records, Respondent's Certificate of Registration No. MB2171128 expired on July 31, 2022. The fact that a registrant allows his registration to expire during the pendency of an OSC does not impact the Agency's jurisdiction or prerogative under the Controlled Substances Act (hereinafter, CSA) to adjudicate the OSC to finality. *Jeffrey D. Olsen, M.D.,* 84 FR 68,474 (2019).

[2] The record demonstrates that service of the OSC on Respondent was accomplished on or before June 28, 2022, *see* Government Exhibit (hereinafter, GX) E, at 1–2, and the Government does not contest the timeliness of the request for a hearing.

[3] The record demonstrates that Respondent's filing was untimely. *See* Briefing Order, at 2; Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter, Recommended Decision), at 2 n.2. Nonetheless, the Agency will fully consider the Respondent's arguments made therein.

[4] In his Opposition, Respondent argued that his DEA registration should not be revoked because he maintains active nursing licenses in Colorado and because he is still challenging the underlying action against his California nursing licenses. Opposition, at 3–6.

[5] By letter dated September 21, 2022, the ALJ certified and transmitted the record to the Agency for final agency action and advised that neither party filed exceptions.

[6] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly,

Continued

License Search, *https://search.dca.ca.gov* (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to engage in the practice of nursing in California, the state in which he is registered with the DEA. [7]

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978). [8]

According to California statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Cal. Health & Safety Code § 11010 (West 2022). Further, a ''practitioner'' means a person ''licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in this state.'' *Id.* at § 11026(c).

Here, the undisputed evidence in the record is that Respondent lacks authority to practice nursing in California. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in California. Thus, because Respondent lacks authority to practice nursing in California and, therefore, is not authorized to handle controlled substances in California, Respondent is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Respondent's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. MB2171128 issued to Gerald M. Baltz, N.P. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending applications of Gerald M. Baltz, N.P., to renew or modify this registration, as well as any other pending application of Gerald M. Baltz, N.P., for additional registration in California. This Order is effective December 8, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on November 1, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–24303 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–09–P

Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

[7] Regarding Respondent's argument that his DEA registration should not be revoked because he maintains active nursing licenses in Colorado, Respondent's DEA registration is based on his California nursing licenses, which have undeniably been revoked. *Omar Garcia, M.D.,* 87 FR 32,186, 32,187 n.6 (2022).

[8] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617. Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71,371 (quoting *Anne Lazar Thorn,* 62 FR 12,847, 12,848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18,273, 18,274 (2007); *Wingfield Drugs,* 52 FR 27,070, 27,071 (1987). Thus, it is of no consequence that Respondent is still challenging the underlying action. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in California, the state in which he is registered with the DEA.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Interim Partial Consent Decree Under the Clean Water Act

On October 31, 2022, the Department of Justice lodged a proposed Interim Partial Consent Decree with the United States District Court for the Northern District of Ohio, Western Division, in the lawsuit entitled *United States of America and the State of Ohio* v. *City of Lakewood, Ohio,* Civil Action No. 1:22–cv–01964.

The United States and the State of Ohio filed this lawsuit under the Clean Water Act against the City of Lakewood, Ohio. The complaint seeks injunctive relief and civil penalties for violations of the regulations that govern discharges of pollutants to waters of the United States. The Complaint alleges that on numerous occasions since January 2016, Lakewood has: (1) discharged untreated sanitary sewage into nearby waterbodies in violation of the Clean Water Act; and (2) discharged effluent from combined sewer overflow outfalls in violation of its permit.

The United States and the State of Ohio reached agreement with Lakewood on an Interim Partial Consent Decree, which will partially resolve the claims in the complaint. It will resolve all civil penalty claims, but will not fully resolve the injunctive relief claims alleged in the complaint. The Decree requires Lakewood to undertake several projects to greatly reduce discharges of untreated sanitary sewage into Lake Erie and the Rocky River. Lakewood will then be required to submit an updated plan to reduce discharges of sanitary sewage in the remainder of Lakewood's sewer system. Lakewood will ultimately be required to implement its updated plan through a subsequent, enforceable agreement with the United States and the State of Ohio and demonstrate compliance with the Clean Water Act, which will fully resolve all of the

injunctive relief claims in the complaint. Lakewood will pay a civil penalty of $100,000, split evenly between the United States and the State. The State joins in the proposed Decree.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Ohio* v. *City of Lakewood, Ohio,* D.J. Ref. No. 90–5–1–1–08725/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $18.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–24327 Filed 11–7–22; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 2022 Under the Federal Unemployment Tax Act

AGENCY: Employment and Training Administration.

ACTION: Notice.

The Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.,* thereby enabling employers who make contributions to state unemployment funds to obtain certain credits against their liability for the federal unemployment tax. By letter, the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Signed in Washington, DC, October 31, 2022.

Brent Parton,

Acting Assistant Secretary, Employment and Training.

The Honorable Janet L. Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Yellen:

Enclosed are an original and a copy of two separate certifications regarding unemployment compensation laws, pursuant to the Federal Unemployment Tax Act, for the 12-month period ending on October 31, 2022. One certification is required with respect to the ''normal'' federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other certification is required with respect to the ''additional'' tax credit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,

MARTIN J. WALSH
Enclosures

CERTIFICATION OF STATES TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3304(c) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named states to the Secretary of the Treasury for the 12-month period ending on October 31, 2022, in regard to the unemployment compensation laws of those states, which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 2021.

MARTIN J. WALSH

CERTIFICATION OF STATE UNEMPLOYMENT COMPENSATION LAWS THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3303(b)(1) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named states, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 2022:

Alabama
Alaska
Arizona
Arkansas
California

Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee Texas
Utah
Vermont
Virginia Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code, subject to the limitations of Section 3302(c) of the Code.

Signed at Washington, DC, on October 31, 2022.

MARTIN J. WALSH

[FR Doc. 2022–24319 Filed 11–7–22; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Coal Mine Dust Sampling Devices

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before December 8, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Continuous Personal Dust Monitors (CPDMs) estimates the concentration of respirable dust in coal mines. CPDMs must be designed and constructed for coal miners to wear and operate without impeding their ability to perform their work safely and effectively, and must be durable to perform reliably in normal working conditions of coal mines. Paperwork requirements imposed on applicants are related to the application process and CPDM testing procedures. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 1, 2022 (87 FR 39566).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–MSHA.

Title of Collection: Coal Mine Dust Sampling Devices.

OMB Control Number: 1219–0147.

Affected Public: Businesses or other for-profits institutions.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 1.

Total Estimated Annual Time Burden: 41 hours.

Total Estimated Annual Other Costs Burden: $301,810.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–24317 Filed 11–7–22; 8:45 am]

BILLING CODE 4510–43–P

LEGAL SERVICES CORPORATION

Notice of Intent To Award—Grant Awards for the Delivery of Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 2023

AGENCY: Legal Services Corporation.

ACTION: Announcement of the Legal Services Corporation's intent to make FY2023 Basic Field Grant Awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award grants to provide effective and efficient delivery of high-quality civil legal services to eligible low-income clients, starting January 1, 2023.

DATES: All comments and recommendations must be received on or before the close of business on December 8, 2022.

ADDRESSES: Basic Field Grant Awards, Legal Services Corporation; 3333 K Street NW, Third Floor; Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Christine Williams, Program Manager for Basic Field Competition, Office of

Program Performance, at (202) 295–1602 or *williamsc@lsc.gov.*

SUPPLEMENTARY INFORMATION: Under LSC's Notice of Funding Availability published on March 15, 2022 (87 FR 14580) and LSC's grant application process beginning on April 11, 2022, LSC intends to award funds to organizations that provide civil legal services in the indicated service areas. Applicants for each service area are listed below. The grant award amounts below are estimates based on the FY2022 grant awards to each service area. The funding estimates may change based on the final FY2023 appropriation. In addition, Agricultural Worker service area population estimates are subject to change based on Department of Labor review and comments LSC receives during the 30-day comment period.

LSC will post all updates and changes to this notice at *https://www.lsc.gov/grants/basic-field-grant/basic-field-awards.* Interested parties are asked to visit *https://www.lsc.gov/grants/basic-field-grant* regularly for updates on the LSC grants process.

Name of applicant organization	State	Service area	Estimated annualized 2023 funding
Legal Services Alabama, Inc	AL	AL–4	$7,454,847
Alaska Legal Services Corporation	AK	AK–1	1,042,623
Alaska Legal Services Corporation	AK	NAK–1	708,975
Legal Aid of Arkansas, Inc	AR	AR–6	1,854,512
Center for Arkansas Legal Services	AR	AR–7	2,778,864
American Samoa Legal Aid	AS	AS–1	336,887
Community Legal Services, Inc	AZ	MAZ	435,645
Community Legal Services, Inc	AZ	AZ–3	6,533,307
Southern Arizona Legal Aid, Inc	AZ	AZ–5	2,621,118
Southern Arizona Legal Aid, Inc	AZ	NAZ–6	835,613
DNA-Peoples Legal Services, Inc	AZ	AZ–2	560,745
DNA-Peoples Legal Services, Inc	AZ	NAZ–5	3,420,840
California Indian Legal Services, Inc	CA	CA–1	38,050
California Indian Legal Services, Inc	CA	NCA–1	1,158,200
Greater Bakersfield Legal Assistance, Inc	CA	CA–2	1,411,179
Central California Legal Services	CA	CA–26	3,522,131
Legal Aid Foundation of Los Angeles	CA	CA–29	6,937,384
Neighborhood Legal Services of Los Angeles County	CA	CA–30	4,697,790
Inland Counties Legal Services, Inc	CA	CA–12	5,389,469
Legal Services of Northern California, Inc	CA	CA–27	4,557,419
Legal Aid Society of San Diego, Inc	CA	CA–14	3,236,493
California Rural Legal Assistance, Inc	CA	MCA	4,082,796
California Rural Legal Assistance, Inc	CA	CA–31	5,486,604
Bay Area Legal Aid	CA	CA–28	4,812,036
Community Legal Aid SoCal	CA	CA–19	4,047,361
Colorado Legal Services	CO	MCO	286,935
Colorado Legal Services	CO	CO–6	5,294,268
Colorado Legal Services	CO	NCO–1	125,898
Statewide Legal Services of Connecticut, Inc	CT	CT–1	3,604,944
Pine Tree Legal Assistance, Inc	CT	NCT–1	20,524
Neighborhood Legal Services Program of the District of Columbia	DC	DC–1	958,849
Legal Services Corporation of Delaware, Inc	DE	DE–1	1,096,589
Community Legal Services of Mid-Florida, Inc	FL	FL–15	5,829,486
Florida Rural Legal Services, Inc	FL	MFL	931,254
Florida Rural Legal Services, Inc	FL	FL–17	4,925,012
Legal Services of Greater Miami, Inc	FL	FL–5	4,342,324
Legal Services of North Florida, Inc	FL	FL–13	2,126,279
Bay Area Legal Services, Inc	FL	FL–16	4,525,544
Three Rivers Legal Services, Inc	FL	FL–14	2,761,351
Coast to Coast Legal Aid of South Florida, Inc	FL	FL–18	2,781,169
Atlanta Legal Aid Society, Inc	GA	GA–1	4,272,205
Georgia Legal Services Program	GA	MGA	636,797
Georgia Legal Services Program	GA	GA–2	9,641,970
Micronesian Legal Services Corporation	GU	GU–1	379,663
Legal Aid Society of Hawaii	HI	HI–1	1,569,437
Legal Aid Society of Hawaii	HI	NHI–1	300,295
Iowa Legal Aid	IA	MIA	277,107
Iowa Legal Aid	IA	IA–3	3,340,910
Idaho Legal Aid Services, Inc	ID	MID	397,355
Idaho Legal Aid Services, Inc	ID	ID–1	1,678,307
Idaho Legal Aid Services, Inc	ID	NID–1	85,169
Legal Aid Chicago	IL	MIL	258,049
Legal Aid Chicago	IL	IL–6	6,847,162
Land of Lincoln Legal Aid, Inc	IL	IL–3	3,235,564
Prairie State Legal Services, Inc	IL	IL–7	4,704,051
Indiana Legal Services, Inc	IN	MIN	182,793
Indiana Legal Services, Inc	IN	IN–5	8,033,908
Kansas Legal Services, Inc	KS	KS–1	3,422,879
Legal Aid of the Bluegrass	KY	KY–10	1,875,216
Legal Aid Society	KY	KY–2	1,626,434

Name of applicant organization	State	Service area	Estimated annualized 2023 funding
Appalachian Research and Defense Fund of Kentucky	KY	KY–5	2,034,023
Kentucky Legal Aid	KY	KY–9	1,634,026
Acadiana Legal Service Corporation	LA	LA–15	4,576,430
Southeast Louisiana Legal Services Corporation	LA	LA–13	4,200,841
Volunteer Lawyers Project of the Boston Bar Association	MA	MA–11	2,572,654
South Coastal Counties Legal Services	MA	MA–12	1,202,327
Northeast Legal Aid, Inc	MA	MA–4	977,871
Community Legal Aid, Inc	MA	MA–10	1,795,171
Maryland Legal Aid	MD	MDE	30,126
Maryland Legal Aid	MD	MMD	135,936
Maryland Legal Aid	MD	MD–1	5,500,975
Pine Tree Legal Assistance, Inc	ME	MMX–1	351,873
Pine Tree Legal Assistance, Inc	ME	ME–1	1,402,327
Pine Tree Legal Assistance, Inc	ME	NME–1	84,496
Michigan Advocacy Program	MI	MMI	641,887
Michigan Advocacy Program	MI	MI–12	2,095,335
Legal Services of Eastern Michigan	MI	MI–14	1,987,273
Lakeshore Legal Aid	MI	MI–13	5,118,956
Legal Services of Northern Michigan, Inc	MI	MI–9	950,069
Legal Aid of Western Michigan	MI	MI–15	2,646,992
Michigan Indian Legal Services, Inc	MI	NMI–1	215,802
Legal Aid Service of Northeastern Minnesota	MN	MN–1	506,508
Central Minnesota Legal Services, Inc	MN	MN–6	1,960,026
Legal Services of Northwest Minnesota Corporation	MN	MN–4	428,414
Southern Minnesota Regional Legal Services, Inc	MN	MMN	493,225
Southern Minnesota Regional Legal Services, Inc	MN	MN–5	1,850,944
Anishinabe Legal Services, Inc	MN	NMN–1	313,290
Legal Aid of Western Missouri	MO	MMO	190,518
Legal Aid of Western Missouri	MO	MO–3	2,620,383
Legal Services of Eastern Missouri, Inc.	MO	MO–4	2,328,178
Mid-Missouri Legal Services Corporation	MO	MO–5	653,868
Legal Services of Southern Missouri	MO	MO–7	2,363,915
Micronesian Legal Services Corporation	MP	MP–1	1,904,025
North Mississippi Rural Legal Services, Inc	MS	MS–9	2,205,139
Mississippi Center for Legal Services	MS	MS–10	3,434,943
Mississippi Center for Legal Services	MS	NMS–1	108,972
Montana Legal Services Association	MT	MMT	160,704
Montana Legal Services Association	MT	MT–1	1,236,027
Montana Legal Services Association	MT	NMT–1	208,737
Legal Aid of North Carolina, Inc	NC	MNC	731,719
Legal Aid of North Carolina, Inc	NC	NC–5	13,948,567
Legal Aid of North Carolina, Inc	NC	NNC–1	286,107
Southern Minnesota Regional Legal Services, Inc	ND	MND	129,152
Legal Services of North Dakota	ND	ND–3	698,105
Legal Services of North Dakota	ND	NND–3	353,132
Legal Aid of Nebraska	NE	MNE	221,082
Legal Aid of Nebraska	NE	NE–4	1,746,287
Legal Aid of Nebraska	NE	NNE–1	43,333
603 Legal Aid	NH	NH–1	980,664
Legal Services of Northwest Jersey, Inc	NJ	NJ–15	657,622
South Jersey Legal Services, Inc	NJ	MNJ	161,211
South Jersey Legal Services, Inc	NJ	NJ–20	2,619,734
Northeast New Jersey Legal Services Corporation	NJ	NJ–18	2,175,086
Essex-Newark Legal Services Project, Inc	NJ	NJ–8	1,127,515
Central Jersey Legal Services, Inc	NJ	NJ–17	1,713,141
DNA-Peoples Legal Services, Inc	NM	NM–1	261,449
DNA-Peoples Legal Services, Inc	NM	NNM–2	29,784
New Mexico Legal Aid	NM	MNM	192,521
New Mexico Legal Aid	NM	NM–5	3,498,879
New Mexico Legal Aid	NM	NNM–4	609,114
Nevada Legal Services, Inc	NV	NV–1	4,019,943
Nevada Legal Services, Inc	NV	NNV–1	174,321
Legal Aid Society of Northeastern New York, Inc	NY	NY–21	1,818,420
Neighborhood Legal Services, Inc	NY	NY–24	1,656,510
Nassau/Suffolk Law Services Committee, Inc	NY	NY–7	1,731,065
Legal Services NYC	NY	NY–9	13,709,652
Legal Assistance of Western New York, Inc	NY	NY–23	2,249,920
Legal Aid Society of Mid-New York, Inc	NY	MNY	349,647
Legal Aid Society of Mid-New York, Inc	NY	NY–22	2,274,110
Legal Services of the Hudson Valley	NY	NY–20	2,338,529
Community Legal Aid Services, Inc	OH	OH–20	2,568,674
Legal Aid Society of Greater Cincinnati	OH	OH–18	2,153,855

Name of applicant organization	State	Service area	Estimated annualized 2023 funding
The Legal Aid Society of Cleveland	OH	OH–21	2,942,674
Ohio State Legal Services	OH	OH–24	4,238,651
Legal Aid of Western Ohio, Inc	OH	MOH	224,627
Legal Aid of Western Ohio, Inc	OH	OH–23	3,597,605
Oklahoma Indian Legal Services, Inc	OK	NOK–1	1,073,383
Legal Aid Services of Oklahoma, Inc	OK	MOK	308,668
Legal Aid Services of Oklahoma, Inc	OK	OK–3	5,866,156
Legal Aid Services of Oregon	OR	MOR	575,863
Legal Aid Services of Oregon	OR	OR–6	4,408,700
Legal Aid Services of Oregon	OR	NOR–1	242,000
Philadelphia Legal Assistance Center	PA	MPA	434,189
Philadelphia Legal Assistance Center	PA	PA–1	3,697,584
Laurel Legal Services, Inc	PA	PA–5	874,573
MidPenn Legal Services, Inc	PA	PA–25	3,229,064
Neighborhood Legal Services Association	PA	PA–8	1,761,195
North Penn Legal Services, Inc	PA	PA–24	2,575,311
Southwestern Pennsylvania Legal Services, Inc	PA	PA–11	557,300
Northwestern Legal Services	PA	PA–26	923,958
Legal Aid of Southeastern Pennsylvania	PA	PA–23	1,720,307
Puerto Rico Legal Services, Inc	PR	MPR	64,846
Puerto Rico Legal Services, Inc	PR	PR–1	14,185,024
Community Law Office, Inc	PR	PR–2	331,814
Rhode Island Legal Services, Inc	RI	RI–1	1,159,621
South Carolina Legal Services, Inc	SC	MSC	285,548
South Carolina Legal Services, Inc	SC	SC–8	7,051,259
East River Legal Services	SD	SD–2	508,947
Dakota Plains Legal Services, Inc	SD	SD–4	570,745
Dakota Plains Legal Services, Inc	SD	NSD–1	1,224,027
Legal Aid of East Tennessee	TN	TN–9	3,157,543
Memphis Area Legal Services, Inc	TN	TN–4	1,722,132
Legal Aid Society of Middle Tennessee and the Cumberlands	TN	TN–10	3,832,310
West Tennessee Legal Services, Inc	TN	TN–7	817,895
Legal Aid of NorthWest Texas	TX	TX–14	11,241,514
Lone Star Legal Aid	TX	TX–13	14,717,956
Texas RioGrande Legal Aid, Inc	TX	MSX–2	3,035,532
Texas RioGrande Legal Aid, Inc	TX	TX–15	13,869,443
Texas RioGrande Legal Aid, Inc	TX	NTX–1	41,029
Utah Legal Services, Inc	UT	MUT	113,712
Utah Legal Services, Inc	UT	UT–1	2,865,302
Utah Legal Services, Inc	UT	NUT–1	107,850
Legal Services of Northern Virginia, Inc	VA	VA–20	2,088,666
Southwest Virginia Legal Aid Society, Inc	VA	VA–15	1,029,221
Legal Aid Society of Eastern Virginia	VA	VA–16	1,743,146
Central Virginia Legal Aid Society, Inc	VA	MVA	326,709
Central Virginia Legal Aid Society, Inc	VA	VA–18	1,518,423
Virginia Legal Aid Society, Inc	VA	VA–17	995,887
Blue Ridge Legal Services, Inc	VA	VA–19	1,011,891
Legal Services of the Virgin Islands, Inc	VI	VI–1	250,189
Legal Services Vermont	VT	VT–1	584,593
Northwest Justice Project	WA	MWA	1,069,875
Northwest Justice Project	WA	WA–1	6,664,038
Northwest Justice Project	WA	NWA–1	373,443
Legal Action of Wisconsin, Inc	WI	MWI	496,244
Legal Action of Wisconsin, Inc	WI	WI–5	4,584,046
Wisconsin Judicare, Inc	WI	WI–2	1,184,081
Wisconsin Judicare, Inc	WI	NWI–1	203,355
Legal Aid of West Virginia, Inc	WV	WV–5	2,952,060
Legal Aid of Wyoming, Inc	WY	WY–4	603,100
Legal Aid of Wyoming, Inc	WY	NWY–1	226,535

These grants will be awarded under the authority conferred on LSC by section 1006(a)(1) of the Legal Services Corporation Act, 42 U.S.C. 2996e(a)(l). Grant awards are made to ensure civil legal services are provided in every service area, although no listed organization is guaranteed a grant award. Grants will become effective, and grant funds will be distributed, on or about January 1, 2023.

LSC issues this notice pursuant to 42 U.S.C. 2996f(f). Comments and recommendations concerning potential grantees are invited and should be delivered to LSC within 30 days from the date of publication of this notice.

Dated: November 2, 2022.

Stefanie Davis,

Senior Associate General Counsel for Regulations.

[FR Doc. 2022–24261 Filed 11–7–22; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0174]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of three amendment requests. The amendment requests are for Salem Nuclear Generating Station, Unit 2; Vogtle Electric Generating Plant, Units 1 and 2; and Surry Power Station, Units 1 and 2. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration (NSHC). Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation by persons who file a hearing request or petition for leave to intervene.

DATES: Comments must be filed by December 8, 2022. A request for a hearing or petitions for leave to intervene must be filed by January 9, 2023. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by November 18, 2022.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0174. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Karen Zeleznock, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1118, email: *Karen.Zeleznock@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0174, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0174.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0174, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this

proposed determination for each amendment request is shown in this notice.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State,

local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9:00 a.m. and 6:00 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit 2; Salem County, NJ

Docket No	50–311.
Application Date	August 7, 2022.
ADAMS Accession No	ML22220A248.
Location in Application of NSHC	Pages 14–16 of Enclosure 1.
Brief Description of Amendment	The amendment would revise the reactor coolant system pressure-temperature (P–T) limits and relocate the pressurizer overpressure protection system enable temperature and lift settings and the P–T limits to a Pressure and Temperature Limits Report.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jodi Varon, PSEG Services Corporation, 80 Park Plaza, T–5, Newark, NJ 07102.
NRC Project Manager, Telephone Number	James Kim, 301–415–4125.

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 1 and 2; Burke County, GA

Docket Nos	50–424, 50–425.
Application Date	June 30, 2022, as supplemented by letter dated September 13, 2022.
ADAMS Accession Nos	ML22181B156, ML22256A198.
Location in Application of NSHC	Pages E2–24 through E2–27 of Enclosure 2.
Brief Description of Amendments	The proposed amendment would authorize the use of four Accident Tolerant Fuel Lead Test Assemblies to be placed in limiting core locations for up to two cycles of operation.
Proposed Determination	NSHC.

Name of Attorney for Licensee, Mailing Address	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number	John Lamb, 301–415–3100.

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Surry County, VA

Docket Nos	50–280, 50–281.
Application Date	August 15, 2022.
ADAMS Accession No	ML22227A177.
Location in Application of NSHC	Pages 12–16 of Attachment 1.
Brief Description of Amendments	The proposed amendment would revise the following Technical Specifications (TS), as part of a criticality safety analysis for fuel assembly storage in the Surry Spent Fuel Pool storage racks and New Fuel Storage Racks, TS 5.3.1.1: Spent Fuel Pool Storage Racks, TS 5.3.1.2: New Fuel Storage Racks, TS 5.3.1.3: Two Region Spent Fuel Pool Layout: Adds new Figures 5.3–1, ''New Fuel Storage Racks Empty Cells,'' and Figure 5.3–2, ''Region 1 Burnup Curve.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	John Klos, 301–415–5136.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit 2; Salem County, NJ

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 1 and 2; Burke County, GA

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Surry County, VA

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing or opportunity for hearing, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email addresses for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: October 14, 2022.

For the Nuclear Regulatory Commission.

Rochelle C. Bavol,

Acting Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing or opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement or Affidavit for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Agreements or Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or notice of opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2022–22722 Filed 11–7–22; 8:45 am]

BILLING CODE 7590–01–P

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012, 78 FR 34247, June 7, 2013) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387, 50–388, and 72–028; NRC–2022–0185]

Susquehanna Steam Electric Station, Units 1 and 2 and Associated Independent Spent Fuel Storage Installation; Consideration of Approval of Indirect Transfer of Licenses and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect transfer of licenses and conforming amendments; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) received and is considering approval of an application filed by Susquehanna Nuclear, LLC (Susquehanna Nuclear) on September 29, 2022, as supplemented by letter dated October 28, 2022. The application seeks NRC approval of the indirect transfer of Renewed Facility Operating License Nos. NPF–14 and NPF–22 for Susquehanna Steam Electric Station (Susquehanna), Units 1 and 2, respectively, and the general license for the Susquehanna independent spent fuel storage installation (ISFSI) as a result of the restructuring of Talen Energy Corporation, an indirect parent of Susquehanna Nuclear, as a reorganized company yet to be named (referred to as ''Reorganized Talen''). The NRC is also considering amending the renewed facility operating licenses for administrative purposes to reflect the proposed transfer. The application and supplement contain sensitive unclassified non-safeguards information (SUNSI).

DATES: Submit comments by December 8, 2022. A request for a hearing or petitions for leave to intervene must be filed by November 28, 2022. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must follow the instructions in Section VI of the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0185. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Audrey Klett, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0489; email: *Audrey.Klett@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0185 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0185.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The application dated September 29, 2022, is available in ADAMS under Accession No. ML22272A604. The supplement dated October 28, 2022, is available in ADAMS under Accession No. ML22301A205.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. ET, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0185 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the indirect transfer of Renewed Facility Operating License Nos. NPF–14 and NPF–22 for Susquehanna, Units 1 and 2, respectively, and the general license for the Susquehanna ISFSI as a result of the restructuring of Talen Energy Corporation as Reorganized Talen. The NRC is also considering amending the renewed facility operating licenses for administrative purposes to reflect the proposed transfer.

According to the application filed by Susquehanna Nuclear, Susquehanna Nuclear is a direct, wholly owned subsidiary of Talen Energy Supply, which is a direct, wholly owned subsidiary of Talen Energy Corporation, the stock of which is held by affiliates of Riverstone Holdings, LLC (Riverstone). Talen Energy Supply and

certain of its subsidiaries (collectively, the Debtors) each filed a voluntary case under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas and executed a restructuring support agreement. The Debtors filed a joint plan of reorganization. Under the terms of this plan, the Debtors and Talen Energy Corporation intend to pursue a comprehensive restructuring. The expectation is that, at the conclusion of the proposed transactions, Susquehanna Nuclear will continue to be directly owned by Talen Energy Supply, which will, in turn, either be, or be directly owned by, Reorganized Talen, and no other changes to the ownership or control of Susquehanna Nuclear will occur in the restructuring. NRC consent to the indirect transfer of control of the Susquehanna licenses will be required prior to consummating the transactions contemplated by the reorganization plan.

According to the application, the proposed transactions do not involve any change to Susquehanna Nuclear's continued operation or its ownership of Susquehanna and do not involve any physical changes in Susquehanna or any changes to the conduct of operations at Susquehanna.

The NRC's regulations at 10 CFR 50.80 and 72.50 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed transfer will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an ISFSI, which does no more than conform the license to reflect the transfer action, involves no significant hazards consideration and no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 20 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 20 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to

the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9:00 a.m. and 6:00 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated September 29, 2022, and its supplement dated October 28, 2022.

VI. Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Any person who desires access to proprietary, confidential commercial information that has been redacted from the application should contact the applicant by telephoning Ms. Melisa Krick, Manager—Nuclear Regulatory Affairs, at (570) 542–1818 for the purpose of negotiating a confidentiality agreement or a proposed protective order with the applicant. If no agreement can be reached, persons who desire access to this information may file a motion with the Secretary and addressed to the Commission that requests the issuance of a protective order.

Dated: November 3, 2022.

For the Nuclear Regulatory Commission.

Audrey L. Klett,

Senior Project Manager, Plant Licensing Branch 1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–24368 Filed 11–7–22; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96213; File No. SR–NYSEARCA–2022–61]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade the Shares of the Breakwave Tanker Shipping ETF

November 2, 2022.

On September 13, 2022, NYSE Arca, Inc. (''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the shares of the Breakwave Tanker Shipping ETF. The proposed rule change was published for comment in the **Federal Register** on September 27, 2022.[3]

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 11, 2022. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates December 26, 2022, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEARCA–2022–61).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 95853 (Sept. 21, 2022), 87 FR 58552.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24284 Filed 11–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96212; File No. SR–BX–2022–021]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Temporarily Waive Certain Port-Related Fees at Equity 7, Section 115 and Equity 7, Section 130

November 2, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2022, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, 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 temporarily waive certain port-related fees at Equity 7, Section 115 and Equity 7, Section 130, as described further below. The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Equity 7, Section 115 and Equity 7, Section 130 to provide a temporary fee waiver for newly added OUCH order entry ports (production and Testing Facility environments) with the updated version of the OUCH Order entry protocol,[3] referred to as ''OUCH 5.0.'' The Exchange has proposed[4] to introduce this new upgraded version of the OUCH Order entry protocol that will enable the Exchange to make functional enhancements and improvements to specific Order Types[5] and Order Attributes.[6]

Temporary Fee Waiver Pursuant to Equity 7, Section 115

First, the Exchange proposes to amend Equity 7, Section 115 to provide a 30-day waiver of the OUCH production port fee for up to five[7] newly added OUCH ports with the updated version of the OUCH Order entry protocol, OUCH 5.0. The fee waiver would be offered for a three-month period, beginning on the date when OUCH 5.0 first becomes available on the Exchange, which such date the Exchange shall announce in an Equity Trader Alert. At the end of the three-month period, users would no longer be eligible for the waiver. A user may only receive the 30-day waiver once per port (up to a maximum of five ports) within the three-month window. The Exchange proposes to offer this temporary waiver to encourage new, prospective customers to adopt and returning customers to migrate to the updated version of the OUCH Order entry protocol.

Temporary Fee Waiver Pursuant to Equity 7, Section 130

Second, the Exchange proposes to amend Equity 7, Section 130 to provide a 30-day waiver of the $300 Testing Facility fee in Section 130(d)(1)(B) for up to five[8] newly added OUCH Testing Facility ports with the updated version of the OUCH Order entry protocol, OUCH 5.0. This fee waiver would also be offered for a three-month period, beginning on a date specified by the Exchange in an Equity Trader Alert. At the end of the three-month period, users would no longer be eligible for the waiver. A user may only receive the 30-day waiver once per port (up to a maximum of five ports) within the three-month window. The Testing Facility provides subscribers with a virtual System test environment that closely approximates the production environment on which they may test their automated systems that integrate with the Exchange. For example, the Testing Facility provides subscribers a virtual System environment for testing upcoming releases and product enhancements, as well as testing firm software prior to implementation. The Exchange proposes to offer this temporary waiver to encourage customers to test the updated version of the OUCH Order entry protocol free of charge.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its fee schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The OUCH Order entry protocol is a proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. OUCH accepts limit Orders from members, and if there are matching Orders, they will execute. Non-matching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. OUCH only provides a method for members to send Orders and receive status updates on those Orders. *See https://www.nasdaqtrader.com/Trader.aspx?id=OUCH.*

[4] *See* Securities Exchange Act Release No. 95695 (September 7, 2022), 87 FR 56122 (September 13, 2022).

[5] An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to Nasdaq. See Equity 1, Section 1(a)(11).

[6] An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the Exchange. *See id.*

[7] The fee waiver is limited to a maximum of five OUCH production ports per Web Central Registration Depository (''CRD'') membership.

[8] The fee waiver is limited to a maximum of five OUCH Testing Facility ports per CRD membership.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

in that market. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11]

The Exchange believes that it is reasonable to provide temporary fee waivers for up to five newly added OUCH order entry ports (production and Testing Facility environments) with the updated version of the OUCH Order entry protocol, OUCH 5.0. The Exchange believes it is important to provide users an opportunity to test OUCH 5.0 free of charge. The temporary fee waivers would encourage users to test and adopt the enhanced OUCH Order entry protocol.

The Exchange believes that the proposed temporary fee waivers are an equitable allocation of reasonable dues, fees and other charges and not unfairly discriminatory because the Exchange will apply the same temporary fee waivers to all similarly situated members. The waivers will reduce fees for and benefit all users that add OUCH 5.0 order entry ports (production and Testing Facility environments) within the three-month window.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participants at a competitive disadvantage. The proposed change to temporarily waive fees for newly added OUCH 5.0 order entry ports (production and Testing Facility environments) will apply uniformly to all similarly situated participants. The temporary fee waivers are available to all users and would enable users to test the OUCH enhancements at no cost.

Intermarket Competition

The Exchange believes that the proposed temporary fee waivers will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock.

The proposed fee waivers are reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. The proposed fee waivers would facilitate adoption of enhancements to the Exchange's System and Order entry protocols, which is pro-competitive because the enhancements bolster the efficiency, functionality, and overall attractiveness of the Exchange in an absolute sense and relative to its peers. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members, participants, or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[12] and Rule 19b–4(f)(2) [13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2022–021 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–BX–2022–021. 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–BX–2022–021 and should be submitted on or before November 29, 2022.

[11] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24288 Filed 11–7–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96210; File No. SR–FICC–2022–008]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Clearing Agency Liquidity Risk Management Framework To Include a New Section Describing the Process by Which FICC Would Designate Uncommitted Resources as Qualifying Liquid Resources and Make Other Changes

November 2, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2022, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Clearing Agency Liquidity Risk Management Framework (''Framework'') of FICC and its affiliates, The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC,'' and together with FICC and DTC, the ''Clearing Agencies'').[3] Specifically, the proposed rule changes would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as qualifying liquid resources (''QLR'');[4] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes, as described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies adopted the Framework[5] to set forth the manner in which they measure, monitor and manage the liquidity risks that arise in or are borne by each of the Clearing Agencies, including (i) the manner in which each Clearing Agency deploys their respective liquidity tools to meet its settlement obligations on an ongoing and timely basis, and (ii) each applicable Clearing Agency's use of intraday liquidity.[6] In this way, the Framework describes the liquidity risk management of each of the Clearing Agencies and how the Clearing Agencies meet the applicable requirements of Rule 17Ad–22(e)(7) under the Act.[7]

The proposed changes to the Framework would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR;[8] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes. Each of these proposed changes is described in greater detail below.

i. Proposed Amendments To Add a New Section Describing the Process by Which FICC Would Designate Uncommitted Liquidity Resources as QLR

The Clearing Agencies would add a new section to the Framework that pertains specifically to FICC's designation of uncommitted liquidity resources as QLR pursuant to the requirements of Rule 17Ad–22(a)(14)(ii)(B) under the Act.[9] FICC does not at this time have uncommitted liquidity resources designated as QLR; however, the proposed new section would allow FICC to have such QLR to the extent the requirements of Rule 17Ad–22(a)(14)(ii)(B) are followed.

In addition, and consistent with its existing processes, FICC would consider whether any uncommitted liquidity resources, including those that are designated as QLR, would require a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act,[10] and the rules thereunder, or an advance notice with the Commission pursuant to Section 806(e)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010,[11] and the rules thereunder.

The proposed new section would explain that, in order to designate an uncommitted liquidity resource as a QLR, FICC would first identify the properties of each financing arrangement, including the underlying collateral and the liquidity providers. Based on the nature of the liquidity resource, FICC would then determine the nature of the rigorous analysis that is appropriate for that resource and

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not defined herein are defined in the DTC Rules, By-Laws and Organization Certificate, the FICC Government Securities Division Rulebook, the FICC Mortgage-Backed Securities Division Clearing Rules, or the NSCC Rules & Procedures (''NSCC Rules''), as applicable, *available at http://dtcc.com/legal/rules-and-procedures.*

[4] *See* 17 CFR 240.17Ad–22(a)(14).

[5] *See* Securities Exchange Act Release No. 82377 (December 21, 2017), 82 FR 61617 (December 28, 2017) (SR–DTC–2017–004; SR–NSCC–2017–005; SR–FICC–2017–008).

[6] *See* 17 CFR 240.17Ad–22(e)(7)(i), (ii), and (iv) through (ix).

[7] *Id.*

[8] *See* 17 CFR 240.17Ad–22(a)(14).

[9] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[10] 15 U.S.C. 78s(b)(1).

[11] 12 U.S.C. 5465(e)(1).

would conduct that analysis at least annually.

The proposed new section to the Framework would also state that, following completion of that analysis, both (1) the components of that analysis and (2) the results of that analysis, would be presented to the Board Risk Committee on at least on an annual basis. When considering whether to designate the uncommitted resource as a QLR, the Board Risk Committee would determine if the uncommitted liquid resource is highly reliable under extreme but plausible market conditions consistent with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[12]

ii. Proposed Amendments To Clarify That FICC May Have Access to Liquidity Resources That are not Designated as QLR

The proposed changes to the Framework would also make clear that FICC may have access to liquidity resources that are not designated as QLR. At this time, FICC maintains uncommitted master repurchase agreements (''MRAs'') that can be utilized to finance via the repo market the securities in FICC's Clearing Funds and those purchased on behalf of a defaulting Member to raise funds. While not designated as QLR, amounts available under the MRAs may be utilized as liquidity resources in the event of a Member default. The proposed rule change states that on a weekly basis, a study to estimate the depth of the repo market under prevailing market conditions as well as a sample stress scenario to assess potential available liquidity in the event of default of the largest Member would be performed.

In addition, the proposed rule changes provide that, at least annually, FICC would conduct counterparty due diligence reviews that would assess each non-QLR liquidity provider's ability to provide liquidity to FICC under current market conditions and would provide a summary of these reviews to the Board Risk Committee.[13] The proposed rule change also states that FICC would test any non-QLR annually with the respective liquidity providers to confirm that such liquidity providers are operationally able to perform their commitments and are familiar with the applicable process.

As a conforming change, the proposed rule change would delete language referring to MRAs as QLR. The proposed rule change would add a sentence stating that FICC may count MRAs as QLR if the procedures for designating them as such (as described above) are followed. As a further conforming change, the proposed rule change would specify that the section of the Framework regarding liquidity resources that are not designated as QLR applies specifically to FICC.

iii. Proposed Amendments To Delete the Stand-Alone Section on Due Diligence and Testing, and Instead Add Due Diligence and Testing Descriptions Where Each Liquidity Resource Is Described or State Where Testing Is Not Performed, as Applicable

The current Framework contains a stand-alone section (''Stand-Alone Section'') on the due diligence and testing of liquidity providers that the Clearing Agencies perform. The proposed rule changes would delete the Stand-Alone Section and would instead add descriptions of the due diligence and testing performed in connection with each type of liquidity resource in the section of the Framework where each resource is described, as further described below in subsection v. The proposed rule changes also state where testing is not performed, where applicable, as further described below in subsections iv. and v.

More specifically, the Stand-Alone Section currently states that the Counterparty Credit Risk department (''CCR'') reviews the limits, outstanding investments, and collateral held (if applicable) at each investment counterparty. The proposed rule change would (i) restate this language to make clear that CCR's review includes a financial analysis of each counterparty, the Clearing Agencies' investments at each counterparty, and any recommendations for changes in limits to these investments and (ii) place the restated sentence in the section of the Framework related to the specific liquidity resource that CCR is surveilling.[14] The Stand-Alone Section also references formal reviews on the reliability of QLR providers and specifically ascribes certain due diligence and review responsibilities to CCR. The proposed rule change would describe CCR's obligations regarding liquidity providers in the appropriate section of the Framework related to the specific liquidity resource that CCR is surveilling. The proposed rule change also indicates where another department, such as Treasury, is responsible for actions that the Stand-Alone Section ascribes to CCR. For non-QLR liquidity resources, the proposed rule change describes the role of several departments in reviewing these resources.

Finally, the Stand-Alone Section references testing. The proposed rule change would move the references to testing where each resource is described in the Framework.

iv. Proposed Amendments To Clarify the Description of FICC's QLR

The proposed changes would make clear that each FICC division has its own Clearing Fund that includes deposits of cash. The proposed changes would also delete language regarding the ability of FICC to borrow from the Clearing Fund as that is already covered in the rules of each division. The proposed rule change would clarify the description of FICC's QLR by adding language on same day access to funds regarding deposits of Clearing Fund in creditworthy commercial banks. The proposed changes would also clarify that the rules-based committed Capped Contingency Liquidity Facility programs are determined for each FICC division per the division's respective rules.

In addition, the Framework would make clear that for purposes of making FICC Clearing Fund deposits, Members are not considered ''liquidity providers'' with reference to Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[15]

[12] 17 CFR 240.17Ad–22(a)(14)(ii)(B). Examples of the type of information that the Board Risk Committee could rely on in order to determine whether it would be appropriate to designate the proposed uncommitted resource as a QLR would include whether (i) FICC has identified securities that may be pledged pursuant to the proposed financing arrangement and that such securities are reasonably likely to be readily available for pledging and acceptable as collateral; (ii) FICC has reviewed the terms of the proposed financing arrangement to confirm such terms are current, appropriate and not expected to restrict FICC's use of the proposed financing arrangement; (iii) FICC has completed due diligence of each liquidity provider as required by Rule 17Ad–22(e)(7)(iv) under the Act; and (iv) FICC has developed procedures to test the proposed financing arrangement at least annually to confirm the liquidity providers are operationally able to perform their commitments and are familiar with the drawdown process, consistent with the requirements of Rule 17Ad–22(e)(7)(v) under the Act. 17 CFR 240.17Ad–22(e)(7)(iv) and (v). In addition, FICC would include in the analysis presented to the Board Risk Committee recommendations and analyses of an independent third party that the proposed resource is highly reliable in extreme but plausible market conditions.

[13] Such due diligence includes reviews of, for example, relevant member financial metrics, results of operational testing, and relevant market data applicable to the type of securities being financed.

[14] The sentence in the Stand-Alone Section that refers to a review of each investment counterparty's deposit level at the Federal Reserve Bank of New York would not be retained because it reflects a drafting error (the Clearing Agencies are concerned with their deposits at the counterparties and not the counterparties' deposits at the Federal Reserve Bank of New York).

[15] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

v. Proposed Amendments To Clarify the Description of NSCC's and DTC's QLR, Add Language to Reflect NSCC's and DTC's Current Due Diligence and Testing Processes for Their Committed Line of Credit, and Make a Correction to the Description of DTC's Collateral Monitor

The proposed rule change would clarify the description of NSCC's QLR by deleting language regarding the ability of NSCC to borrow from the Clearing Fund as that is already covered in the NSCC Rules. In addition, the proposed changes would replace ''medium- and long-term'' with ''senior'' (which covers both medium- and long-term) before ''unsecured notes'' in the description of NSCC's QLR in order to simplify terminology.

The proposed changes would provide that, because the process for collecting Supplemental Liquidity Deposits (''SLD''), pursuant to NSCC Rule 4A,[16] is the same process used for collecting required deposits to the NSCC Clearing Fund, and Members are aware of such process, no testing is required for purposes of Rule 17Ad–22(e)(7)(v) under the Act.[17] In addition, the proposed changes would state that NSCC conducts Member outreach with those Members whose liquidity exposure may require them to make SLD in the future.

The proposed rule change would clarify the descriptions of DTC's and NSCC's QLR by adding language on same day access to funds regarding deposits of DTC Participants Fund and NSCC Clearing Fund in creditworthy commercial banks. In addition, the proposed changes would make clear that for purposes of making DTC Participants Fund deposits and NSCC Clearing Fund deposits, DTC Participants and NSCC Members, respectively, are not considered ''liquidity providers'' with reference to Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[18]

The proposed changes would add language to the descriptions of DTC's and NSCC's QLR to reflect DTC's and NSCC's current practices of conducting surveillance of bank lenders to their committed credit facility, and testing the committed credit facility at least annually to confirm that the lenders, agents and respective Clearing Agency are operationally prepared to meet their obligations under the facility and are familiar with the borrowing process.

The proposed rule change would also make a correction to the description of DTC's Collateral Monitor. Currently, the Framework states that the Liquidity Risk Product Unit verifies that the Collateral Monitor will not become negative if the transaction is processed. Because this verification is done automatically, the proposed rule change would correct the sentence to state that DTC performs this verification automatically.

vi. Proposed Amendments to Make Technical Changes

The proposed rule changes include certain technical changes as follows:

- Make conforming and cross-reference changes in the Executive Summary;
- Delete a sentence that may be confusing in that it states that liquidity resources are maintained consistent with risk tolerances, whereas the correct statement is that liquidity resources are maintained consistent with Rule 17Ad–22(e)(7) under the Act,[19] which is already stated elsewhere in the Framework;
- Make conforming and cross-reference changes in the general section on ''Liquidity Resources;''
- Restate the first sentence in the section describing FICC's QLR so that it reads more clearly;
- Remove cross-references and phrases referencing other sections of the Framework where such references are no longer correct;
- Add the word ''FICC'' to the end of a sentence where it was inadvertently deleted; and
- Renumber the last three sections of the Framework to account for the deletion of the section on due diligence/testing.

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[20] and Rules 17Ad–22(e)(7) and 17Ad–22(a)(14)(ii)(B) under the Act,[21] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible,[22] for the reasons described below. The proposed changes described above in Items II(A)1.i. and II(A)1.ii. would update the Framework to (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR;[23] and (2) clarify that FICC may have access to liquidity resources that are not designated as QLR. By updating the Framework to reflect these changes, the Clearing Agencies believe the proposed rule change would make the Framework more effective in describing FICC's liquidity risk management procedures as they relate to FICC's liquidity resources. The proposed rule changes would introduce clarity to the Framework through the addition of a specific process regarding FICC's designation of uncommitted resources as QLR and would better explain the section regarding FICC's resources that are not QLR. Because FICC's liquidity resources support the ability of FICC to effect timely settlement, and because the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions and therefore also potentially facilitate timely settlement, the Clearing Agencies believe that the proposed changes described in Items II(A)1.i. and II(A)1.ii. above are consistent with Section 17A(b)(3)(F) of the Act.

The proposed changes described in Items II(A)1.iii. through II(A)1.vi. above would (1) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described; (2) clarify the description of FICC's QLR; (3) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes regarding their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (4) make technical changes. These proposed changes would improve the clarity of the descriptions of various liquidity management processes of the Clearing Agencies. The improvement in the clarity of the descriptions of liquidity risk management processes within the Framework would assist the Clearing Agencies in carrying out these functions. Therefore, the Clearing Agencies believe the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act[24] that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the

[16] *See supra* note 3.

[17] 17 CFR 240.17Ad–22(e)(7)(v).

[18] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

[19] 17 CFR 240.17Ad–22(e)(7).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(7) and 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] *See* 17 CFR 240.17Ad–22(a)(14).

[24] 15 U.S.C. 78q–1(b)(3)(F).

safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Clearing Agencies believe that the proposed changes are consistent with Rule 17Ad–22(e)(7) under the Act,[25] which requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, doing the requirements set forth in Rule 17Ad–22(e)(7). The proposed rule changes described above have been designed to enhance the Clearing Agencies' compliance with Rule 17Ad–22(e)(7) by addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications. By addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications, the proposed rule changes would reduce ambiguity and thus assist risk management staff in the performance of their duties associated with compliance of Rule 17Ad–22(e)(7).

In addition, the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions, in accordance with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[26]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe the proposed rule change would have any impact, or impose any burden, on competition. As described above, the proposed changes would update the Framework to describe the process by which FICC would designate uncommitted liquidity resources as QLR, clarify that FICC may have access to liquidity resources that are not designated as QLR, and improve the clarity of the descriptions of the Clearing Agencies' liquidity risk management functions. Therefore, the proposed changes relate mostly to the operation of the Framework and/or are technical in nature. As such, the Clearing Agencies do not believe that the proposed rule change would have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

The Clearing Agencies reserve the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–FICC–2022–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2022–008. 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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2022–008 and should be submitted on or before November 29, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24282 Filed 11–7–22; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 240.17Ad–22(e)(7).

[26] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96209; File No. SR–CboeEDGX–2022–047]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Programs in Connection with the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options

November 2, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2022, Cboe EDGX Exchange, Inc. (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 Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') proposes to extend the pilot programs in connection with the listing and trading of P.M.-settled series on certain broad-based index options. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change extends the listing and trading of P.M.-settled series on certain broad-based index options on a pilot basis.[5] Rule 29.11(a)(6) currently permits the listing and trading of XSP options with third-Friday-of-the-month expiration dates, whose exercise settlement value will be based on the closing index value on the expiration day (''P.M.-settled'') on a pilot basis set to expire on November 7, 2022 (the ''XSPPM Pilot Program''). Rule 29.11(j)(3) also permits the listing and trading of P.M.-settled options on broad-based indexes with weekly expirations (''Weeklys'') and end-of-month expirations (''EOMs'') on a pilot basis set to expire on November 7, 2022 (the ''Nonstandard Expirations Pilot Program'', and together with the XSPPM Pilot Program, the ''Pilot Programs''). The Exchange proposes to extend the Pilot Programs through May 8, 2023.

XSPPM Pilot Program

Rule 29.11(a)(6) permits the listing and trading, in addition to A.M.-settled XSP options, of P.M.-settled XSP options with third-Friday-of-the-month expiration dates on a pilot basis. The Exchange believes that continuing to permit the trading of XSP options on a P.M.-settled basis will continue to encourage greater trading in XSP options. Other than settlement and closing time on the last trading day (pursuant to Rule 29.10(a)),[6] contract terms for P.M.-settled XSP options are the same as the A.M.-settled XSP options. The contract uses a $100 multiplier and the minimum trading increments, strike price intervals, and expirations are the same as the A.M.-settled XSP option series. P.M.-settled XSP options have European-style exercise. The Exchange also has flexibility to open for trading additional series in response to customer demand.

If the Exchange were to propose another extension of the XSPPM Pilot Program or should the Exchange propose to make the XSPPM Pilot Program permanent, the Exchange would submit a filing proposing such amendments to the XSPPM Pilot Program. Further, any positions established under the XSPPM Pilot Program would not be impacted by the expiration of the XSPPM Pilot Program. For example, if the Exchange lists a P.M.-settled XSP option that expires after the XSPPM Pilot Program expires (and is not extended), then those positions would continue to exist. If the pilot were not extended, then the positions could continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the XSPPM Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[7] This annual report contains an analysis

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange is authorized to list for trading options that overlie the Mini-SPX Index (''XSP'') and the Russell 2000 Index (''RUT''). *See* Rule 29.11(a). *See also* Securities Exchange Act Release Nos. 84481 (October 24, 2018), 83 FR 54624 (October 30, 2018) (Notice of Filing of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeEDGX–2018–037) (''Notice''); 85182 (February 22, 2019), 84 FR 6846 (February 28, 2019) (Notice of Deemed Approval of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeEDGX–2018–037); 88054 (January 27, 2020), 85 FR 5761 (January 31, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2020–002); 88787 (April 30, 2020), 85 FR 26995 (May 6, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2020–019); 90253 (October 22, 2020) 85 FR 68390 (October 28, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2020–050); 91700 (April 28, 2021), 86 FR 23770 (May 4, 2021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2021–022); 93453 (October 28, 2021), 86 FR 60667 (November 3, 2021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2021–047); *and* 94803 (April 27, 2022), 87 FR 26237 (May 3, 2022) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeEDGX–2022–025).

[6] Rule 29.10(a) permits transactions in P.M.-settled XSP options on their last trading day to be effected on the Exchange between the hours of 9:30 a.m. and 4:00 p.m. Eastern time. All other transactions in index options are effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern time.

[7] The Exchange notes that the Pilot Programs currently run on a bi-annual pilot basis.

of volume, open interest, and trading patterns. In proposing to extend the XSPPM Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[8] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the XSPPM Pilot Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website data and analyses previously submitted to the Commission under the Pilot Program, and will make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange also notes that its affiliated options exchange, Cboe Exchange, Inc. (''Cboe Options'') currently has pilots that permit P.M.-settled third Friday-of-the-month XSP options.[9]

Nonstandard Expirations Pilot Program

Rule 29.11(j)(1) permits the listing and trading, on a pilot basis, of P.M.-settled options on broad-based indexes with nonstandard expiration dates and is currently set to expire on November 7, 2022. The Nonstandard Expirations Pilot Program permits both Weeklys and EOMs as discussed below. Contract terms for the Weekly and EOM expirations are similar to those of the A.M.-settled broad-based index options, except that the Weekly and EOM expirations are P.M.-settled.

In particular, Rule 29.11(j)(1) permits the Exchange to open for trading Weeklys on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM). Weeklys are subject to all provisions of Rule 29.11 and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the Nonstandard Expirations Pilot Program, Weeklys are P.M.-settled, and new Weekly series may be added up to and including on the expiration date for an expiring Weekly.

Rule 29.11(a)(2) permits the Exchange to open for trading EOMs on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOMs are subject to all provisions of Rule 29.11 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the Nonstandard Expirations Pilot Program, EOMs are P.M.-settled, and new series of EOMs may be added up to and including on the expiration date for an expiring EOM.

As stated above, this proposed rule change extends the Nonstandard Expirations Pilot Program for broad-based index options on a pilot basis, for a period of six months. If the Exchange were to propose an additional extension of the Nonstandard Expirations Pilot Program or should the Exchange propose to make it permanent, the Exchange would submit additional filings proposing such amendments. Further, any positions established under the Nonstandard Expirations Pilot Program would not be impacted by the expiration of the pilot. For example, if the Exchange lists a Weekly or EOM that expires after the Nonstandard Expirations Pilot Program expires (and is not extended), then those positions would continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the Nonstandard Expirations Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[10] This annual report contains an analysis of volume, open interest, and trading patterns. In proposing to extend the Nonstandard Expirations Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[11] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Nonstandard Expirations Pilot Program is consistent with the Exchange Act. The Exchange makes its annual data and analyses previously submitted to the Commission under the Pilot Program public on its website and will continue to make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange notes that other exchanges, including its affiliated exchange, Cboe Options, currently have pilots that have weekly and end-of-month expirations.[12]

Additional Information

The Exchange believes there is sufficient investor interest and demand in the XSPPM and Nonstandard Expirations Pilot Programs to warrant their extension. The Exchange believes that the Programs have provided investors with additional means of managing their risk exposures and carrying out their investment objectives. The proposed extensions will continue to offer investors the benefit of added transparency, price discovery, and stability, as well as the continued expanded trading opportunities in connection with different expiration times. The Exchange proposes the extension of the Pilot Programs in order to continue to give the Commission more time to consider the impact of the Pilot Programs. To this point, the Exchange believes that the Pilot Programs have been well-received by its Members and the investing public, and the Exchange would like to continue to provide investors with the ability to trade P.M.-settled XSP options and contracts with nonstandard expirations. All terms regarding the trading of the Pilot Products shall continue to operate as described in the XSPPM and Nonstandard Expirations Notice.[13] The Exchange merely proposes herein to extend the terms of the Pilot Programs to May 8, 2023.

Furthermore, the Exchange has not experienced any adverse market effects with respect to the Programs. The Exchange will continue to monitor for any such disruptions or the development of any factors that would cause such disruptions. The Exchange represents it continues to have an adequate surveillance program in place for index options and that the proposed extension will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirements that the rules of

[8] *See supra* note 5.

[9] *See* Cboe Options Rule 4.13.13, which also permits P.M.-settled third Friday-of-the-month SPX options on a pilot basis (''SPXPM Pilot Program''). The Exchange notes that, prior to the proposed November 7, 2022 Pilot Programs expiration date, Cboe Options intends to submit a proposal to make its SPXPM Pilot Program permanent. Following the Commission's review and approval of Cboe Options' proposal, the Exchange intends to file a similar proposal to make its XSPPM Pilot Program permanent.

[10] *See supra* note 7.

[11] *See supra* note 5.

[12] *See* Cboe Options Rule 4.13(e); and Phlx Rule 1101A(b)(5).

[13] *See supra* note 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed extension of the Pilot Programs will continue to provide greater opportunities for investors. The Exchange believes that the Pilot Programs have been successful to date. The proposed rule change allows for an extension of the Program for the benefit of market participants. The Exchange believes that there is demand for the expirations offered under the Program and believes that P.M.-settled XSP, Weekly Expirations and EOMs will continue to provide the investing public and other market participants with the opportunities to trade desirable products and to better manage their risk exposure. The proposed extension will also provide the Commission further opportunity to observe such trading of the Pilot Products. Further, the Exchange has not encountered any problems with the Programs; it has not experienced any adverse effects or meaningful regulatory or capacity concerns from the operation of the Pilot Programs. Also, the Exchange believes that such trading pursuant to the XSPPM Pilot Program has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Programs, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

Specifically, the Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all EDGX Options market participants, and the Pilot Products will continue to be available to all EDGX Options market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Programs to warrant its extension. The Exchange believes that, for the period that the Pilot Programs has been in operation, it has provided investors with desirable products with which to trade. Furthermore, as stated above, the Exchange maintains that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Programs. The Exchange further does not believe that the proposed extension of the Pilot Programs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on EDGX Options. To the extent that the continued trading of the Pilot Products may make EDGX Options a more attractive marketplace to market participants at other exchanges, such market participants may elect to become EDGX Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [19] 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 proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Pilot Programs prior to their expiration on November 7, 2022, and maintain the status quo, thereby reducing market disruption. 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 Pilot Programs to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Pilot Programs. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2022–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] 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).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2022–047. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2022–047 and should be submitted on or before November 29, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24283 Filed 11–7–22; 8:45 am]

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[21] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–198, OMB Control No. 3235–0279]

Submission for OMB Review; Comment Request; Extension: Rule 17a–4

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information provided for in Rule 17a–4 (17 CFR 240.17a–4), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–4 requires exchange members, brokers, and dealers (''broker-dealers'') to preserve for prescribed periods of time certain records required to be made by Rule 17a–3. In addition, Rule 17a–4 requires the preservation of records required to be made by other Commission rules and other kinds of records which firms make or receive in the ordinary course of business. These include, but are not limited to, bank statements, cancelled checks, bills receivable and payable, originals of communications, and descriptions of various transactions. Rule 17a–4 also permits broker-dealers to employ, under certain conditions, electronic storage media to maintain records required to be maintained under Rules 17a–3 and 17a–4.

There are approximately 3,508 active, registered broker-dealers. The staff estimates that the average amount of time necessary to preserve the books and records as required by Rule 17a–4 is 254 hours per broker-dealer per year. Additionally, the Commission estimates that paragraph (b)(11) of Rule 17a–4 imposes an annual burden of 3 hours per year to maintain the requisite records. The Commission estimates that there are approximately 200 internal broker-dealer systems, resulting in an annual recordkeeping burden of 600 hours.

The Commission also estimates that there are approximately 2,578 broker-dealers with retail customers resulting in an annual initial burden of approximately 4,225,342 hours and an annual ongoing burden of approximately 4,182,947 to comply with Rule 17a–4(e)(5). Moreover the Commission estimates that these broker-dealers will incur 258 hours in annual burden to comply with Rule 17a–4(e)(10).

Therefore, the Commission estimates that compliance with Rule 17a–4 requires 9,300,179 hours each year ((3,508 broker-dealers × 254 hours) + (200 broker-dealers × 3 hours) + 4,225,342 hours + 4,182,947 hours + 258 hours)). These burdens are recordkeeping burdens. The total burden hour decrease of 678,217 hours is due to a decrease in the number of respondents from 3,764 to 3,508.

In addition, the Commission estimates that the telephonic recording retention provision of paragraph (b)(4) of Rule 17a–4 imposes an initial burden on broker-dealer SBSDs and broker-dealer MSBSPs of 13 hours per firm in the first year and an ongoing burden of 6 hours per year (including the first year). Therefore, the Commission estimates that there are 17 respondents, resulting in an estimated industry-wide initial burden of 221 hours in the first year and an ongoing burden of 102 hours per year (including the first year) bringing the total industry burden estimation to 527 hours over a three-year period.

The Commission estimates that the provisions of paragraphs (b)(1), and (b)(8)(v)–(viii) relating to security-based swap activities and paragraphs (b)(8)(xvi) and (b)(14) of Rule 17a–4 impose an initial burden of 65 hours per firm in the first year and an ongoing burden of 30 hours per year (including the first year). The Commission estimates that there are 42 respondents, resulting in an estimated industry-wide initial burden of 2,730 hours in the first year and an ongoing burden of 1,260 hours per year (including the first year) bringing the total industry burden estimation to 6,510 hours over a three-year period.

The Commission estimates that the provisions of paragraph (b)(1) applicable to broker-dealer SBSDs and broker-dealer MSBSPs and paragraphs (b)(15) and (b)(16) of Rule 17a–4 impose an initial burden of 65 hours per firm in the first year and an ongoing burden of 30 hours per year on broker-dealer SBSDs and broker-dealer MSBSPs (including the first year). The Commission estimates that there are 17 respondents, resulting in an estimated industry-wide initial burden of 1,105 hours in the first year and an ongoing burden of 510 hours per year (including the first year) bringing the total industry burden estimation to 2,635 hours over a three year period.

The Commission estimates that provisions of paragraph (b)(1) of Rule 17a–4 that apply only to broker-dealer SBSDs impose an initial burden of 13 hours per firm in the first year and an ongoing burden of 6 hours per year (including the first year) on broker-dealer SBSDs. The Commission estimates that there are 16 broker-dealer SBSDs, resulting in an estimated industry-wide initial burden of 208 hours in the first year and an ongoing burden of 96 hours per year (including the first year) bringing the total industry burden estimation to 496 hours over a three year period.

The staff believes that compliance personnel would be charged with ensuring compliance with Commission regulation, including Rule 17a–4. The staff estimates that the hourly salary of a Compliance Clerk is $78 per hour. Based upon these numbers, the total internal cost of compliance for 3,508 respondents is the dollar cost of approximately $749 million ((891,632 yearly hours × $78) + (600 hours × $78) + (4,225,342 hours × $78) + (4,489,218 hours × $78) + (258 hours × $78)).

Based on conversations with members of the securities industry and the Commission's experience in the area, the staff estimates that the average broker-dealer spends approximately $5,000 each year to store documents required to be retained under Rule 17a–4. Costs include the cost of physical space, computer hardware and software, etc., which vary widely depending on the size of the broker-dealer and the type of storage media employed. The Commission estimates that the annual reporting and recordkeeping cost burden is $17,540,000. This cost is calculated by the number of active, registered broker-dealers multiplied by the reporting and recordkeeping cost for each respondent (3,508 registered broker-dealers × $5,000).

The Commission estimates that each applicable firm incurs an ongoing annual cost of approximately $2,000 per firm for server, equipment, and systems development costs associated with the telephonic recording retention requirement, which applicable to broker-dealer SBSDs and broker-dealer MSBSPs. The Commission estimates that there are 17 respondents, resulting in an estimated industry-wide ongoing annual cost of $34,000 for compliance with the telephonic recording retention provision of Rule 17a–4(b)(4).

The Commission estimates that provisions of paragraphs (b)(1), (b)(8)(v)–(viii) relating to security-based swap activities and paragraphs (b)(8)(xvi) and (b)(14) of Rule 17a–4 impose an ongoing annual cost of approximately $600 per firm. The Commission estimates that there are 42 respondents, resulting in an estimated industry-wide ongoing annual cost of $25,200.

The Commission estimates that the provisions of paragraph (b)(1) applicable to broker-dealer SBSDs and broker-dealer MSBSPs and paragraphs (b)(15) and (b)(16) of Rule 17a–4 impose ongoing annual cost of approximately $600 per firm. The Commission estimates that there are 17 respondents, resulting in an estimated industry-wide ongoing annual cost of $10,200.

The Commission estimates that the provisions of paragraph (b)(1) of Rule 17a–4 that apply only to broker-dealer SBSDs imposes an additional ongoing annual cost of approximately $120 per firm to broker-dealer SBSDs. The Commission estimates that there are 16 broker-dealer SBSDs, resulting in an estimated industry-wide ongoing annual cost of $1,920.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website: *www.reginfo.gov*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by December 7, 2022 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: November 2, 2022.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–24248 Filed 11–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96208; File No. SR–CboeBZX–2022–052]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options

November 2, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2022, Cboe BZX Exchange, Inc. (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 Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX Options'') proposes to extend the pilot programs in connection with the listing and trading of P.M.-settled series on certain broad-based index options. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change extends the listing and trading of P.M.-settled series on certain broad-based index options on a pilot basis.[5] Rule 29.11(a)(6) currently

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange is authorized to list for trading options that overlie the Mini-SPX Index (''XSP'') and the Russell 2000 Index (''RUT''). *See* Rule 29.11(a). *See also* Securities Exchange Act Release Nos. 84480 (October 24, 2018), 83 FR 54635 (October 30, 2018) (Notice of Filing of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–CboeBZX–2018–066) (''Notice''); 85181 (February 22, 2019), 84 FR 6842 (February 28, 2019) (Notice of Deemed Approval of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options on a Pilot Basis) (SR–

permits the listing and trading of XSP options with third-Friday-of-the-month expiration dates, whose exercise settlement value will be based on the closing index value on the expiration day (''P.M.-settled'') on a pilot basis set to expire on November 7, 2022 (the ''XSPPM Pilot Program''). Rule 29.11(j)(3) also permits the listing and trading of P.M.-settled options on broad-based indexes with weekly expirations (''Weeklys'') and end-of-month expirations (''EOMs'') on a pilot basis set to expire on November 7, 2022 (the ''Nonstandard Expirations Pilot Program'', and together with the XSPPM Pilot Program, the ''Pilot Programs''). The Exchange proposes to extend the Pilot Programs through May 8, 2023.

XSPPM Pilot Program

Rule 29.11(a)(6) permits the listing and trading, in addition to A.M.-settled XSP options, of P.M.-settled XSP options with third-Friday-of-the-month expiration dates on a pilot basis. The Exchange believes that continuing to permit the trading of XSP options on a P.M.-settled basis will continue to encourage greater trading in XSP options. Other than settlement and closing time on the last trading day (pursuant to Rule 29.10(a)),[6] contract terms for P.M.-settled XSP options are the same as the A.M.-settled XSP options. The contract uses a $100 multiplier and the minimum trading increments, strike price intervals, and expirations are the same as the A.M.-settled XSP option series. P.M.-settled XSP options have European-style exercise. The Exchange also has flexibility to open for trading additional series in response to customer demand.

If the Exchange were to propose another extension of the XSPPM Pilot Program or should the Exchange propose to make the XSPPM Pilot Program permanent, the Exchange would submit a filing proposing such amendments to the XSPPM Pilot Program. Further, any positions established under the XSPPM Pilot Program would not be impacted by the expiration of the XSPPM Pilot Program. For example, if the Exchange lists a P.M.-settled XSP option that expires after the XSPPM Pilot Program expires (and is not extended), then those positions would continue to exist. If the pilot were not extended, then the positions could continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the XSPPM Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[7] This annual report contains an analysis of volume, open interest, and trading patterns. In proposing to extend the XSPPM Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[8] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the XSPPM Pilot Program is consistent with the Exchange Act. The Exchange makes its annual data and analyses previously submitted to the Commission under the Pilot Program public on its website and will continue to make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange also notes that its affiliated options exchange, Cboe Exchange, Inc. (''Cboe Options'') currently has pilots that permit P.M.-settled third Friday-of-the-month XSP options.[9]

Nonstandard Expirations Pilot Program

Rule 29.11(j)(1) permits the listing and trading, on a pilot basis, of P.M.-settled options on broad-based indexes with nonstandard expiration dates and is currently set to expire on November 7, 2022. The Nonstandard Expirations Pilot Program permits both Weeklys and EOMs as discussed below. Contract terms for the Weekly and EOM expirations are similar to those of the A.M.-settled broad-based index options, except that the Weekly and EOM expirations are P.M.-settled.

In particular, Rule 29.11(j)(1) permits the Exchange to open for trading Weeklys on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM). Weeklys are subject to all provisions of Rule 29.11 and are treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the Nonstandard Expirations Pilot Program, Weeklys are P.M.-settled, and new Weekly series may be added up to and including on the expiration date for an expiring Weekly.

Rule 29.11(a)(2) permits the Exchange to open for trading EOMs on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOMs are subject to all provisions of Rule 29.11 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, under the Nonstandard Expirations Pilot Program, EOMs are P.M.-settled, and new series of EOMs may be added up to and including on the expiration date for an expiring EOM.

As stated above, this proposed rule change extends the Nonstandard Expirations Pilot Program for broad-based index options on a pilot basis, for a period of six months. If the Exchange were to propose an additional extension of the Nonstandard Expirations Pilot Program or should the Exchange propose to make it permanent, the Exchange would submit additional filings proposing such amendments. Further, any positions established under the Nonstandard Expirations Pilot Program would not be impacted by the expiration of the pilot. For example, if

CboeBZX–2018–066); 88052 (January 27, 2020), 85 FR 5753 (January 31, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2020–004); 88788 (April 30, 2020), 85 FR 27008 (May 6, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2020–038); and 90255 (October 22, 2020), 85 FR 68378 (October 28, 2020) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2020–076); 91699 (April 28, 2021), 86 FR 23767 (May 4, 2021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2021–031); 93454 (October 28, 2021), 86 FR 60727 (November 3, 2021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2021–072); *and* 94802 (April 27, 2022), 87 FR 26240 (May 3, 2022) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Programs in Connection With the Listing and Trading of P.M.-Settled Series on Certain Broad-Based Index Options) (SR–CboeBZX–2022–029).

[6] Rule 29.10(a) permits transactions in P.M.-settled XSP options on their last trading day to be effected on the Exchange between the hours of 9:30 a.m. and 4:00 p.m. Eastern time. All other transactions in index options are effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern time.

[7] The Exchange notes that the Pilot Programs currently run on a bi-annual pilot basis.

[8] *See supra* note 5.

[9] *See* Cboe Options Rule 4.13.13, which also permits P.M.-settled third Friday-of-the-month SPX options on a pilot basis (''SPXPM Pilot Program''). The Exchange notes that, prior to the proposed May 8, 2023 Pilot Programs expiration date, Cboe Options intends to submit a proposal to make its SPXPM Pilot Program permanent. Following the Commission's review and approval of Cboe Options' proposal, the Exchange intends to file a similar proposal to make its XSPPM Pilot Program permanent.

the Exchange lists a Weekly or EOM that expires after the Nonstandard Expirations Pilot Program expires (and is not extended), then those positions would continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

As part of the Nonstandard Expirations Pilot Program, the Exchange submits a pilot report to the Commission at least two months prior to the expiration date of the pilot.[10] This annual report contains an analysis of volume, open interest, and trading patterns. In proposing to extend the Nonstandard Expirations Pilot Program, the Exchange will continue to abide by the reporting requirements described in the Notice.[11] Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Nonstandard Expirations Pilot Program is consistent with the Exchange Act. The Exchange is in the process of making public on its website data and analyses previously submitted to the Commission under the Pilot Program, and will make public any data and analyses it submits to the Commission under the Pilot Program in the future. The Exchange notes that other exchanges, including its affiliated exchange, Cboe Options, currently have pilots that have weekly and end-of-month expirations.[12]

Additional Information

The Exchange believes there is sufficient investor interest and demand in the XSPPM and Nonstandard Expirations Pilot Programs to warrant their extension. The Exchange believes that the Programs have provided investors with additional means of managing their risk exposures and carrying out their investment objectives. The proposed extensions will continue to offer investors the benefit of added transparency, price discovery, and stability, as well as the continued expanded trading opportunities in connection with different expiration times. The Exchange proposes the extension of the Pilot Programs in order to continue to give the Commission more time to consider the impact of the Pilot Programs. To this point, the Exchange believes that the Pilot Programs have been well-received by its Members and the investing public, and the Exchange would like to continue to provide investors with the ability to trade P.M.-settled XSP options and contracts with nonstandard expirations. All terms regarding the trading of the Pilot Products shall continue to operate as described in the XSPPM and Nonstandard Expirations Notice.[13] The Exchange merely proposes herein to extend the terms of the Pilot Programs to May 8, 2023.

Furthermore, the Exchange has not experienced any adverse market effects with respect to the Programs. The Exchange will continue to monitor for any such disruptions or the development of any factors that would cause such disruptions. The Exchange represents it continues to have an adequate surveillance program in place for index options and that the proposed extension will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed extension of the Pilot Programs will continue to provide greater opportunities for investors. The Exchange believes that the Pilot Programs have been successful to date. The proposed rule change allows for an extension of the Program for the benefit of market participants. The Exchange believes that there is demand for the expirations offered under the Program and believes that P.M.-settled XSP, Weekly Expirations and EOMs will continue to provide the investing public and other market participants with the opportunities to trade desirable products and to better manage their risk exposure. The proposed extension will also provide the Commission further opportunity to observe such trading of the Pilot Products. Further, the Exchange has not encountered any problems with the Programs; it has not experienced any adverse effects or meaningful regulatory or capacity concerns from the operation of the Pilot Programs. Also, the Exchange believes that such trading pursuant to the XSPPM Pilot Program has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Programs, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

Specifically, the Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all BZX Options market participants, and the Pilot Products will continue to be available to all BZX Options market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Programs to warrant its extension. The Exchange believes that, for the period that the Pilot Programs has been in operation, it has provided investors with desirable products with which to trade. Furthermore, as stated above, the Exchange maintains that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Programs. The Exchange further does not believe that the proposed extension of the Pilot Programs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on BZX Options. To the extent that the continued trading of the Pilot Products may make BZX Options a more attractive marketplace to market participants at other exchanges, such market participants may elect to

[10] *See supra* note 7.

[11] *See supra* note 5.

[12] *See* Cboe Options Rule 4.13(e); and Phlx Rule 1101A(b)(5).

[13] *See supra* note 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

become BZX Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [19] 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 proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will allow it to extend the Pilot Programs prior to their expiration on November 7, 2022, and maintain the status quo, thereby reducing market disruption. 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 Pilot Programs to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the Pilot Programs. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2022–052 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2022–052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–052 and should be submitted on or before November 29, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–24287 Filed 11–7–22; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] 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).

[21] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96211; File No. SR–DTC–2022–011]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Amend the Clearing Agency Liquidity Risk Management Framework To Include a New Section Describing the Process by Which FICC Would Designate Uncommitted Resources as Qualifying Liquid Resources and Make Other Changes

November 2, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2022, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Clearing Agency Liquidity Risk Management Framework (''Framework'') of DTC and its affiliates, Fixed Income Clearing Corporation (''FICC'') and National Securities Clearing Corporation (''NSCC,'' and together with FICC and DTC, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Clearing Agencies'').[3] Specifically, the proposed rule changes would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as qualifying liquid resources (''QLR''); [4] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes, as described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies adopted the Framework [5] to set forth the manner in which they measure, monitor and manage the liquidity risks that arise in or are borne by each of the Clearing Agencies, including (i) the manner in which each Clearing Agency deploys their respective liquidity tools to meet its settlement obligations on an ongoing and timely basis, and (ii) each applicable Clearing Agency's use of intraday liquidity.[6] In this way, the Framework describes the liquidity risk management of each of the Clearing Agencies and how the Clearing Agencies meet the applicable requirements of Rule 17Ad–22(e)(7) under the Act.[7]

The proposed changes to the Framework would (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR; [8] (2) clarify that FICC may have access to liquidity resources that are not designated as QLR; (3) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described or state where testing is not performed, as applicable; (4) clarify the description of FICC's QLR; (5) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes for their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (6) make technical changes. Each of these proposed changes is described in greater detail below.

i. Proposed Amendments To Add a New Section Describing the Process by Which FICC Would Designate Uncommitted Liquidity Resources as QLR

The Clearing Agencies would add a new section to the Framework that pertains specifically to FICC's designation of uncommitted liquidity resources as QLR pursuant to the requirements of Rule 17Ad–22(a)(14)(ii)(B) under the Act.[9] FICC does not at this time have uncommitted liquidity resources designated as QLR; however, the proposed new section would allow FICC to have such QLR to the extent the requirements of Rule 17Ad–22(a)(14)(ii)(B) are followed.

In addition, and consistent with its existing processes, FICC would consider whether any uncommitted liquidity resources, including those that are designated as QLR, would require a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act,[10] and the rules thereunder, or an advance notice with the Commission pursuant to Section 806(e)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010,[11] and the rules thereunder.

The proposed new section would explain that, in order to designate an uncommitted liquidity resource as a QLR, FICC would first identify the properties of each financing arrangement, including the underlying collateral and the liquidity providers. Based on the nature of the liquidity resource, FICC would then determine the nature of the rigorous analysis that is appropriate for that resource and would conduct that analysis at least annually.

The proposed new section to the Framework would also state that, following completion of that analysis, both (1) the components of that analysis and (2) the results of that analysis, would be presented to the Board Risk Committee on at least on an annual basis. When considering whether to designate the uncommitted resource as a QLR, the Board Risk Committee would determine if the uncommitted liquid resource is highly reliable under extreme but plausible market conditions consistent with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[12]

ii. Proposed Amendments To Clarify That FICC May Have Access to Liquidity Resources That Are Not Designated as QLR

The proposed changes to the Framework would also make clear that FICC may have access to liquidity resources that are not designated as QLR. At this time, FICC maintains uncommitted master repurchase agreements (''MRAs'') that can be utilized to finance via the repo market

[3] Capitalized terms not defined herein are defined in the DTC Rules, By-Laws and Organization Certificate, the FICC Government Securities Division Rulebook, the FICC Mortgage-Backed Securities Division Clearing Rules, or the NSCC Rules & Procedures (''NSCC Rules''), as applicable, *available at http://dtcc.com/legal/rules-and-procedures.*

[4] *See* 17 CFR 240.17Ad–22(a)(14).

[5] *See* Securities Exchange Act Release No. 82377 (December 21, 2017), 82 FR 61617 (December 28, 2017) (SR–DTC–2017–004; SR–NSCC–2017–005; SR–FICC–2017–008).

[6] *See* 17 CFR 240.17Ad–22(e)(7)(i), (ii), and (iv) through (ix).

[7] *Id.*

[8] *See* 17 CFR 240.17Ad–22(a)(14).

[9] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[10] 15 U.S.C. 78s(b)(1).

[11] 12 U.S.C. 5465(e)(1).

[12] 17 CFR 240.17Ad–22(a)(14)(ii)(B). Examples of the type of information that the Board Risk Committee could rely on in order to determine whether it would be appropriate to designate the proposed uncommitted resource as a QLR would include whether (i) FICC has identified securities that may be pledged pursuant to the proposed financing arrangement and that such securities are reasonably likely to be readily available for pledging and acceptable as collateral; (ii) FICC has reviewed the terms of the proposed financing arrangement to confirm such terms are current, appropriate and not expected to restrict FICC's use of the proposed financing arrangement; (iii) FICC has completed due diligence of each liquidity provider as required by Rule 17Ad–22(e)(7)(iv) under the Act; and (iv) FICC has developed procedures to test the proposed financing arrangement at least annually to confirm the liquidity providers are operationally able to perform their commitments and are familiar with the drawdown process, consistent with the requirements of Rule 17Ad–22(e)(7)(v) under the Act. 17 CFR 240.17Ad–22(e)(7)(iv) and (v). In addition, FICC would include in the analysis presented to the Board Risk Committee recommendations and analyses of an independent third party that the proposed resource is highly reliable in extreme but plausible market conditions.

the securities in FICC's Clearing Funds and those purchased on behalf of a defaulting Member to raise funds. While not designated as QLR, amounts available under the MRAs may be utilized as liquidity resources in the event of a Member default. The proposed rule change states that on a weekly basis, a study to estimate the depth of the repo market under prevailing market conditions as well as a sample stress scenario to assess potential available liquidity in the event of default of the largest Member would be performed.

In addition, the proposed rule changes provide that, at least annually, FICC would conduct counterparty due diligence reviews that would assess each non-QLR liquidity provider's ability to provide liquidity to FICC under current market conditions and would provide a summary of these reviews to the Board Risk Committee.[13] The proposed rule change also states that FICC would test any non-QLR annually with the respective liquidity providers to confirm that such liquidity providers are operationally able to perform their commitments and are familiar with the applicable process.

As a conforming change, the proposed rule change would delete language referring to MRAs as QLR. The proposed rule change would add a sentence stating that FICC may count MRAs as QLR if the procedures for designating them as such (as described above) are followed. As a further conforming change, the proposed rule change would specify that the section of the Framework regarding liquidity resources that are not designated as QLR applies specifically to FICC.

iii. Proposed Amendments To Delete the Stand-Alone Section on Due Diligence and Testing, and Instead Add Due Diligence and Testing Descriptions Where Each Liquidity Resource Is Described or State Where Testing Is Not Performed, as Applicable

The current Framework contains a stand-alone section (''Stand-Alone Section'') on the due diligence and testing of liquidity providers that the Clearing Agencies perform. The proposed rule changes would delete the Stand-Alone Section and would instead add descriptions of the due diligence and testing performed in connection with each type of liquidity resource in the section of the Framework where each resource is described, as further described below in subsection v. The proposed rule changes also state where testing is not performed, where applicable, as further described below in subsections iv. and v.

More specifically, the Stand-Alone Section currently states that the Counterparty Credit Risk department (''CCR'') reviews the limits, outstanding investments, and collateral held (if applicable) at each investment counterparty. The proposed rule change would (i) restate this language to make clear that CCR's review includes a financial analysis of each counterparty, the Clearing Agencies' investments at each counterparty, and any recommendations for changes in limits to these investments and (ii) place the restated sentence in the section of the Framework related to the specific liquidity resource that CCR is surveilling.[14] The Stand-Alone Section also references formal reviews on the reliability of QLR providers and specifically ascribes certain due diligence and review responsibilities to CCR. The proposed rule change would describe CCR's obligations regarding liquidity providers in the appropriate section of the Framework related to the specific liquidity resource that CCR is surveilling. The proposed rule change also indicates where another department, such as Treasury, is responsible for actions that the Stand-Alone Section ascribes to CCR. For non-QLR liquidity resources, the proposed rule change describes the role of several departments in reviewing these resources.

Finally, the Stand-Alone Section references testing. The proposed rule change would move the references to testing where each resource is described in the Framework.

iv. Proposed Amendments To Clarify the Description of FICC's QLR

The proposed changes would make clear that each FICC division has its own Clearing Fund that includes deposits of cash. The proposed changes would also delete language regarding the ability of FICC to borrow from the Clearing Fund as that is already covered in the rules of each division. The proposed rule change would clarify the description of FICC's QLR by adding language on same day access to funds regarding deposits of Clearing Fund in creditworthy commercial banks. The proposed changes would also clarify that the rules-based committed Capped Contingency Liquidity Facility programs are determined for each FICC division per the division's respective rules.

In addition, the Framework would make clear that for purposes of making FICC Clearing Fund deposits, Members are not considered ''liquidity providers'' with reference to Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[15]

v. Proposed Amendments To Clarify the Description of NSCC's and DTC's QLR, Add Language To Reflect NSCC's and DTC's Current Due Diligence and Testing Processes for Their Committed Line of Credit, and Make a Correction to the Description of DTC's Collateral Monitor

The proposed rule change would clarify the description of NSCC's QLR by deleting language regarding the ability of NSCC to borrow from the Clearing Fund as that is already covered in the NSCC Rules. In addition, the proposed changes would replace ''medium- and long-term'' with ''senior'' (which covers both medium- and long-term) before ''unsecured notes'' in the description of NSCC's QLR in order to simplify terminology.

The proposed changes would provide that, because the process for collecting Supplemental Liquidity Deposits (''SLD''), pursuant to NSCC Rule 4A,[16] is the same process used for collecting required deposits to the NSCC Clearing Fund, and Members are aware of such process, no testing is required for purposes of Rule 17Ad–22(e)(7)(v) under the Act.[17] In addition, the proposed changes would state that NSCC conducts Member outreach with those Members whose liquidity exposure may require them to make SLD in the future.

The proposed rule change would clarify the descriptions of DTC's and NSCC's QLR by adding language on same day access to funds regarding deposits of DTC Participants Fund and NSCC Clearing Fund in creditworthy commercial banks. In addition, the proposed changes would make clear that for purposes of making DTC Participants Fund deposits and NSCC Clearing Fund deposits, DTC Participants and NSCC Members, respectively, are not considered ''liquidity providers'' with reference to

[13] Such due diligence includes reviews of, for example, relevant member financial metrics, results of operational testing, and relevant market data applicable to the type of securities being financed.

[14] The sentence in the Stand-Alone Section that refers to a review of each investment counterparty's deposit level at the Federal Reserve Bank of New York would not be retained because it reflects a drafting error (the Clearing Agencies are concerned with their deposits at the counterparties and not the counterparties' deposits at the Federal Reserve Bank of New York).

[15] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

[16] *See supra* note 3.

[17] 17 CFR 240.17Ad–22(e)(7)(v).

Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[18]

The proposed changes would add language to the descriptions of DTC's and NSCC's QLR to reflect DTC's and NSCC's current practices of conducting surveillance of bank lenders to their committed credit facility, and testing the committed credit facility at least annually to confirm that the lenders, agents and respective Clearing Agency are operationally prepared to meet their obligations under the facility and are familiar with the borrowing process.

The proposed rule change would also make a correction to the description of DTC's Collateral Monitor. Currently, the Framework states that the Liquidity Risk Product Unit verifies that the Collateral Monitor will not become negative if the transaction is processed. Because this verification is done automatically, the proposed rule change would correct the sentence to state that DTC performs this verification automatically.

vi. Proposed Amendments To Make Technical Changes

The proposed rule changes include certain technical changes as follows:

- Make conforming and cross-reference changes in the Executive Summary;
- Delete a sentence that may be confusing in that it states that liquidity resources are maintained consistent with risk tolerances, whereas the correct statement is that liquidity resources are maintained consistent with Rule 17Ad–22(e)(7) under the Act,[19] which is already stated elsewhere in the Framework;
- Make conforming and cross-reference changes in the general section on ''Liquidity Resources;''
- Restate the first sentence in the section describing FICC's QLR so that it reads more clearly;
- Remove cross-references and phrases referencing other sections of the Framework where such references are no longer correct;
- Add the word ''FICC'' to the end of a sentence where it was inadvertently deleted; and
- Renumber the last three sections of the Framework to account for the deletion of the section on due diligence/testing.

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[20] and Rules 17Ad–22(e)(7) and 17Ad–22(a)(14)(ii)(B) under the Act,[21] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible,[22] for the reasons described below. The proposed changes described above in Items II(A)1.i. and II(A)1.ii. would update the Framework to (1) add a new section describing the process by which FICC would designate uncommitted liquidity resources as QLR;[23] and (2) clarify that FICC may have access to liquidity resources that are not designated as QLR. By updating the Framework to reflect these changes, the Clearing Agencies believe the proposed rule change would make the Framework more effective in describing FICC's liquidity risk management procedures as they relate to FICC's liquidity resources. The proposed rule changes would introduce clarity to the Framework through the addition of a specific process regarding FICC's designation of uncommitted resources as QLR and would better explain the section regarding FICC's resources that are not QLR. Because FICC's liquidity resources support the ability of FICC to effect timely settlement, and because the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions and therefore also potentially facilitate timely settlement, the Clearing Agencies believe that the proposed changes described in Items II(A)1.i. and II(A)1.ii. above are consistent with Section 17A(b)(3)(F) of the Act.

The proposed changes described in Items II(A)1.iii. through II(A)1.vi. above would (1) delete the stand-alone section on due diligence and testing of liquidity providers, and instead add due diligence and testing descriptions where each liquidity resource is described; (2) clarify the description of FICC's QLR; (3) clarify the description of NSCC's and DTC's QLR, add language to reflect NSCC's and DTC's current due diligence and testing processes regarding their committed line of credit, and make a correction to the description of DTC's Collateral Monitor; and (4) make technical changes. These proposed changes would improve the clarity of the descriptions of various liquidity management processes of the Clearing Agencies. The improvement in the clarity of the descriptions of liquidity risk management processes within the Framework would assist the Clearing Agencies in carrying out these functions. Therefore, the Clearing Agencies believe the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act[24] that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Clearing Agencies believe that the proposed changes are consistent with Rule 17Ad–22(e)(7) under the Act,[25] which requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, doing the requirements set forth in Rule 17Ad–22(e)(7). The proposed rule changes described above have been designed to enhance the Clearing Agencies' compliance with Rule 17Ad–22(e)(7) by addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications. By addressing the designation of QLR and liquidity resources that are not QLR and providing various clarifications, the proposed rule changes would reduce ambiguity and thus assist risk management staff in the performance of their duties associated with compliance of Rule 17Ad–22(e)(7).

In addition, the proposed changes are designed to ensure that any uncommitted resource that is designated as QLR would be highly reliable in extreme but plausible market conditions, in accordance with Rule 17Ad–22(a)(14)(ii)(B) under the Act.[26]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe the proposed rule change would have any impact, or impose any burden, on competition. As described above, the

[18] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

[19] 17 CFR 240.17Ad–22(e)(7).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(7) and 17 CFR 240.17Ad–22(a)(14)(ii)(B).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] *See* 17 CFR 240.17Ad–22(a)(14).

[24] 15 U.S.C. 78q–1(b)(3)(F).

[25] 17 CFR 240.17Ad–22(e)(7).

[26] 17 CFR 240.17Ad–22(a)(14)(ii)(B).

proposed changes would update the Framework to describe the process by which FICC would designate uncommitted liquidity resources as QLR, clarify that FICC may have access to liquidity resources that are not designated as QLR, and improve the clarity of the descriptions of the Clearing Agencies' liquidity risk management functions. Therefore, the proposed changes relate mostly to the operation of the Framework and/or are technical in nature. As such, the Clearing Agencies do not believe that the proposed rule change would have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

The Clearing Agencies reserve the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–DTC–2022–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2022–011. 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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2022–011 and should be submitted on or before November 29, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24286 Filed 11–7–22; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2022–0058]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one revision of an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Comments: *https://www.reginfo.gov/public/do/PRAMain.* Submit your comments online referencing Docket ID Number [SSA–2022–0058].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, *email address: OR.Reports.Clearance@ssa.gov*. Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2022–0058].

The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than January 9, 2023. Individuals can obtain copies of the collection instrument by writing to the above email address.

Privacy and Disclosure of Official Records and Information; Availability of Information and Records to the Public—20 CFR 401.40(b)&(c), 401.45, 401.55(b), 401.65(a), 401.100(a)&(b), 402.130, 402.185—0960–0566.

Under the Privacy and Disclosure of Official Records and Information regulations, SSA has established methods in which the public can consent to and authorize the release of records protected under the Privacy Act of 1974, 5 U.S.C. 552a of the United States Code, and request records accessible through the Freedom of Information Act (FOIA), 5 U.S.C. 552.

Consent for Release of Records

SSA obtains the required consent(s) (with certain exceptions specified by law) from anyone requesting information in SSA systems of records about another individual. We will not release information requested about an individual until we obtain the required consent from that individual. Under the Privacy Act of 1974 (5 U.S.C. 552a(b)), individuals may give SSA written consent to disclose their personal information to a third party of their choosing. In addition, individuals may have multiple needs for the disclosure of their personal information, such as for qualification for a mortgage or pre-employment screenings.

a. Form SSA–3288 (Consent for Release of Information): Form SSA–3288, is SSA's preferred paper form for requests for disclosure of information based on the consent of the subject of the record. Respondents can download the SSA–3288 from *ssa.gov/forms,* obtain a copy at a local SSA field office, or request SSA mail a copy to them directly. Use of this form ensures compliance with SSA consent regulations at 20 CFR 401.100. SSA also collects consent on other writings, including non-SSA forms often used by large employers, that incorporate SSA-approved consent language.

b. Form SSA–3288–OP1 (Consent for Disclosure of Records Protected Under the Privacy Act): The Form SSA–3288–OP1 will comply with the CASES Act, OMB M–21–04, and SSA consent regulations at 20 CFR 401.100.

The CASES Act directed OMB to develop templates for, among other things, electronic consents for SSA to disclose records protected by the Privacy Act of 1974 to third parties. OMB implemented that statutory directive in memorandum M–21–04. SSA developed the SSA–3288–OP1 pursuant to the CASES Act and M–21–04. The public will access the webform application that populates Form SSA–3288–OP1 on the internet by selecting the ''Electronic Request for Consent to Disclose'' link found at *www.ssa.gov/privacy.*

The respondents are individuals consenting to, authorizing, and requesting SSA disclosure of records protected by the *Privacy Act of 1974* to third parties.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Average theoretical hourly cost amount (dollars) **	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
a. Amendment of Records	100	1	10	17	* 28.01	** 24	*** 1,547
b. Consent for Release of Information (SSA–3288)+	2,960,419	1	5	246,702	* 28.01	** 24	*** 40,078,669
c. Consent for Release of Records (Electronic SSA–3288–OP1)+	40,341	1	10	6,724	* 28.01	** 24	** 640,309
Totals	3,000,860			253,443			** 40,720,525

+ The number of respondents for this modality is an estimate based on google analytics data for the SSA–3288 form downloads from *SSA.Gov.*
* We based this figure on average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data *https://www.bls.gov/oes/current/oes_nat.htm.*
** We based this figure on the average FY 2022 wait times for field offices, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: November 3, 2022.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2022–24358 Filed 11–7–22; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1327X]

Flats Industrial Inc. d/b/a Flats Industrial Railroad Company—Abandonment Exemption—in Cleveland, Ohio

Flats Industrial Inc. d/b/a Flats Industrial Railroad Company (FIR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 1.85 miles of rail line, extending from milepost 10 to milepost 11.85 near West 41st Street in Cleveland, Ohio (the Line), which constitutes FIR's entire railroad system.[1] The Line traverses U.S. Postal Service Zip Code 44113.

FIR has certified that: (1) during the past two years, FIR has provided no local or overhead traffic over the Line; (2) overhead traffic, if there were any, could be rerouted over other Lines; (3) no formal complaint filed by a user of rail service on the Line (or by state or local government on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

Where, as here, the carrier is abandoning its entire system, the Board does not normally impose labor protection under 49 U.S.C. 10502(g), unless the evidence indicates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations, or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. *See Honey Creek R.R.—Aban. Exemption—in Henry Cty., Ind.,* AB 865X (STB served Aug. 20, 2004); *Wellsville, Addison & Galeton R.R.—Aban.,* 354 I.C.C. 744 (1978); and *Northampton & Bath R.R.—Aban.,* 354 I.C.C. 784 (1978). According to FIR, after abandonment FIR's parent company and corporate affiliate will not continue similar operations, nor will FIR's parent

[1] This is a republication of the notice of exemption originally served and published in the **Federal Register** on October 31, 2022 (87 FR 65640). This notice contains corrected information.

company realize substantial financial benefits over and above relief from the burden of its subsidiary railroad. Therefore, employee protection conditions will not be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[2] this exemption will be effective on November 30, 2022, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 10, 2022.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 21, 2022.

All pleadings, referring to Docket No. AB 1327X, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on FIR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

FIR has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by November 4, 2022. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0294. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental or historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), FIR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by FIR's filing of a notice of consummation by October 31, 2023, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: November 3, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2022–24365 Filed 11–7–22; 8:45 am]

BILLING CODE 4915–01–P

[2] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from BMO Capital Markets (WB22–61—10/12/22) for permission to use data from the Board's 2017–2021 unmasked Carload Waybill Sample. A copy of this request may be obtained from the Board's website under docket no. WB22–61.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245-0319.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2022–24341 Filed 11–7–22; 8:45 am]

BILLING CODE 4915–01–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. CT on November 10, 2022.

PLACE: The Mill Conference Center, 600 Russell Street, Starkville, Mississippi.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Meeting No. 22–04

The TVA Board of Directors will hold a public meeting on November 10, 2022, at The Mill Conference Center, 600 Russell Street, Starkville, Mississippi.

The meeting will be called to order at 9:00 a.m. CT to consider the agenda items listed below. TVA management will answer questions from the news media following the Board meeting.

On November 9, at The Mill Conference Center, the public may comment on any agenda item or subject at a board-hosted public listening session which begins at 2:00 p.m. CT and will last until 4:00 p.m. Preregistration is required to address the Board.

Agenda

1. Approval of minutes of the August 31, 2022 Board Meeting
2. Report of the Operations and Nuclear Oversight Committee
   A. Pilot Solar Project at Shawnee Fossil Plant
3. Report of the Audit, Finance, Risk, and Cybersecurity Committee
4. Report of the People and Governance Committee
   A. FY22 and FY23 Performance and Compensation
5. Report of the External Stakeholders and Regulation Committee
6. Report from President and CEO

CONTACT PERSON FOR MORE INFORMATION: For more information: Please call Jim Hopson, TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: November 3, 2022.

Edward C. Meade,

Agency Liaison.

[FR Doc. 2022–24478 Filed 11–4–22; 4:15 pm]

BILLING CODE 8120–08–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing Revenue Procedure 2001–29, Leveraged Leases.

DATES: Written comments should be received on or before January 9, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comment@irs.gov.* Include 1545–1738 or Leveraged Leases in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, 202–317–6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Leveraged Leases.

OMB Number: 1545–1738.

Regulation Number: Revenue Procedure 2001–29.

Abstract: Revenue Procedure 2001–29 sets forth the information and representations required to be furnished by taxpayers in requests for an advance ruling that a leveraged lease transaction is, in fact, a valid lease for federal income tax purposes.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time per Respondent: 80 hours.

Estimated Total Annual Reporting Burden hours: 800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 3, 2022.

Molly J. Stasko,

Supervisory Tax Analyst.

[FR Doc. 2022–24323 Filed 11–7–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Disclosure Statement and Regulation Disclosure Statement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning disclosure statement and regulation disclosure statement.

DATES: Written comments should be received on or before January 9, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include OMB control number 1545–0889 or Disclosure Statement (Form 8275) and Regulation Disclosure Statement (Form 8275–R) in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disclosure Statement (Form 8275) and Regulation Disclosure Statement (Form 8275–R).

OMB Number: 1545–0889.

Form Number: 8275 and 8275–R.

Abstract: Internal Revenue Code section 6662 imposes accuracy-related penalties on taxpayers for substantial understatement of tax liability or negligence or disregard of rules and regulations. Code section 6694 imposes similar penalties on return preparers. Regulations sections 1.662–4(e) and (f) provide for reduction of these penalties if adequate disclosure of the tax treatment is made on Form 8275 or, if the position is contrary to regulation on Form 8275–R.

Current Actions: There is no change to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals, not-for-profit institutions, and farms.

Estimated Number of Respondents: 666,666.

Estimated Time per Respondent: 5 hours, 34 minutes.

Estimated Total Annual Burden Hours: 3,716,664 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 3, 2022.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2022–24356 Filed 11–7–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0826]

Agency Information Collection Activity: Intent To File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 9, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0826'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0826'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 5102, 38 CFR 3.155.

Title: Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC (VA Form 21–0966).

OMB Control Number: 2900–0826.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VA Form 21–0966 is used to gather the necessary information to determine an effective date for an award granted in association with a complete claim filed within one year of such form. VA also uses it as a request for application and responds by mailing the claimant a letter of receipt, along with the appropriate VA form or application for VA benefits.

No changes have been made to this form. The respondent burden has decreased due to the estimated number of receivables averaged over the past year.

Affected Public: Individuals and households.

Estimated Annual Burden: 102,348 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 409,394.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–24354 Filed 11–7–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. app. 2., that the Advisory Committee on Former Prisoners of War (ACFPOW) will conduct a hybrid meeting (in-person and virtual) on November 16, 2022–November 17, 2022 at the Michael E. DeBakey VA Medical Center, 2002 Holcombe Blvd., Houston, TX 77030.

The meeting will begin and end as follows, to include public participation:

Date	Time	Location	Open session
November 16, 2022	8:00 a.m.–2:00 p.m. CST	Michael E. DeBakey VA Medical Center Microsoft TEAMS Link and Call-in Information Below	Yes.
November 16, 2022	2:00 p.m.–4:00 p.m. CST	Michael E. DeBakey VA Medical Center	No.
November 17, 2022	9:00 a.m.–10:00 a.m. CST	Houston National Cemetery Microsoft TEAMS Link and Call-in Information Below	Yes.
November 17, 2022	10:00 a.m.–1:30 p.m. CST	Houston National Cemetery	No.
November 17, 2022	1:30 p.m.–2:00 p.m. CST	Michael E. DeBakey VA Medical Center Microsoft TEAMS Link and Call-in Information Below	Yes.

Sessions are open to the public, except when the Committee is conducting a tour of VA facilities. Tours of VA facilities are closed, to protect Veterans' privacy and personal information, by 5 U.S.C. 552b(c)(6).

The purpose of the Committee is to advise the Secretary of VA on the administration of benefits under Title 38 U.S.C., for Veterans who are Former Prisoners of War (FPOW), and to make recommendations on the needs of such Veterans for compensation, health care, rehabilitation, and memorial benefits.

On Wednesday, November 16th, the Committee will assemble in open session from 8:30 a.m. to 2:00 p.m. for discussion and briefings from Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) officials. The Committee will then convene a closed session from 2:00 p.m.–4:00 p.m. to tour the Michael E. DeBakey VA Medical Center. Sessions are open to the public, except when the Committee is conducting a tour of VA facilities. Tours of VA facilities are closed, to protect Veterans' privacy and personal information, by 5 U.S.C. 552b(c)(6).

On Thursday, November 17th, the Committee will assemble in open session from 9:00 a.m. to 10:00 a.m. for discussion and briefings from National Cemetery Administration (NCA) officials. The Committee will then convene a closed session from 10:00 a.m.–1:30 p.m. to tour the Houston National Cemetery. This portion of the meeting is closed due to, 552b(c)(6), the disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Committee will reconvene in open session from 1:30 p.m.–2:00 p.m. to receive a presentation on FPOW interments in the National Cemeteries.

FPOWs who wish to speak at the public forum are invited to submit a 1–2-page commentary for inclusion in official meeting records. Any member of the public may also submit a 1–2-page commentary for the Committee's review.

Any member of the public seeking additional information should contact, Designated Federal Officer, Department of VA, Advisory Committee on Former Prisoners of War at *Julian.Wright2@va.gov* no later than November 11, 2022.

Any member of the public who wishes to participate in the virtual meeting may use the following Microsoft TEAMS Meeting Link:

Join On Your Computer or Mobile App: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_Mjc2ODgxNmYtZDQ4My00OTQyLTgxOTktYjQyYzY2ZWQzMzZi%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-7ab251ab3bf%22%2c%22Oid%22%3a%22b857b6c6-44d8-46b4-8041-6e7d50b9890a%22%7d*

Meeting ID: 247 442 861 485

Passcode: b8yL5x

Download Teams | Join on the web

Or call-in (audio only): 1 872–701–0185, Code:585680318#

Dated: November 2, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–24281 Filed 11–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0904]

Agency Information Collection Activity: Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program (SSG Fox SPGP)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 9, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Janel Keyes, Office of Regulations, Appeals, and Policy (10BRAP), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Janel.Keyes@va.gov.* Please refer to ''OMB Control No. 2900–0904'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0904'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program (SSG Fox SPGP), VA Forms 10–315a–b, 10–316a–f, and 10–317a–d.

OMB Control Number: 2900–0904.

Type of Review: Extension of a currently approved collection.

Abstract: On October 17, 2020, the Commander John Scott Hannon Veterans Mental Health Care Improvement Act of 2019, Public Law (Pub. L.) 116–171 (the Act), codified as a note to section 1720F of title 38, United States Code (U.S.C.), was enacted in law. Section 201 of the Act mandated VA establish the Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program (SSG Fox SPGP) to reduce Veteran suicide through the provision of community-based grants to certain eligible entities to provide or coordinate the provision of suicide prevention services to eligible individuals and their families.

In order to award grants under this program, and assess services and compliance with grants provided, VA requires submission of Applications for grants and Renewals of grants, Compliance Reports, Eligibility Screening, Intake Forms and Assessments, Participant Satisfaction Surveys, Program Exit Checklists, and Suicide Risk Screening Tools.

VA Form 10–315a—Application: This information is needed to award SSG Fox

SPGP grants to eligible entities. The application requirements are consistent with section 201(f) of the Act and are designed to ensure that VA can fully evaluate the ability of applicants to achieve the goals of the grant program.

VA Form 10–315b—Renewal Application: This data collection instrument has been developed for grantees to renew grants previously awarded. The renewal application will allow VA to fully evaluate the ability of applicants to achieve the goals of the SSG Fox SPGP and proposed 38 CFR part 78. This information will be used by VA to determine whether to award renewal funds to existing grantees.

VA Forms 10–316a–f—Compliance Reports: This collection of information will be required to ensure grantees are complying with all program requirements set forth in proposed 38 CFR part 78 and their grant agreements. These reports will allow VA to assess the provision of services under this grant program. The reports consist of Annual Performance Reports, Other Performance and Implementation Reports, Program & Budget Changes, Corrective Action Plans, Annual Financial Expenditure Reports, and Other Financial Reports.

VA Form 10–317a—Eligibility Screening: This data will be collected by grantee staff to determine eligibility for the grant program, prior to enrollment. The collection instrument will include suicide risk factors.

VA Form 10–317b—Intake Form & Assessments: This data collection instrument will be used by grantee staff to collect demographic and military service. This information will be used by the VA to identify trends of the Veteran population the grantees are servicing. In addition, the intake form will include the following assessments: Social Economic Status (SES); Patient Health Questionnaire (PHQ–9); Short Warwick-Edinburgh Mental Wellbeing Scale (SWEMWS); General Self-Efficacy Scale (GSE); and Interpersonal Support Evaluation List (ISEL–12).

VA Form 10–317c—Participant Satisfaction Survey: This data collection instrument has been developed to capture participant feedback about services and to evaluate the SSG Fox SPGP. This information will be used by VA to determine the satisfaction of Veterans participating in the grant program funded services and the effectiveness of those services provided under the SSG Fox SPGP.

VA Form 10–317d—Program Exit Checklist: This data collection instrument will be used by grantee staff at the completion of the program to track the following assessments upon program exit: Social Economic Status (SES); Patient Health Questionnaire (PHQ–9); Short Warwick-Edinburgh Mental Wellbeing Scale (SWEMWS); General Self-Efficacy Scale (GSE); and Interpersonal Support Evaluation List (ISEL–12).

Columbia Suicide Severity Rating Scale (C–SSRS): Suicide risk screening will be administered by grantees using the existing C–SSRS to assess suicide risk of program participants.

Total Annual Number of Responses = 30,205.

Total Annual Time Burden = 21,827 hours.

VA Form 10–315a—Application:
Affected Public: Private sector.
Estimated Annual Burden: 8,750 hours.
Estimated Average Burden per Respondent: 35 hours.
Frequency of Response: Once annually.
Estimated Number of Respondents: 250.

VA Form 10–315b—Renewal Application:
Affected Public: Private sector.
Estimated Annual Burden: 900 hours.
Estimated Average Burden per Respondent: 10 hours.
Frequency of Response: Once annually.
Estimated Number of Respondents: 90.

VA Form 10–316a—Annual Grantee Performance Report:
Affected Public: Private sector.
Estimated Annual Burden: 68 hours.
Estimated Average Burden per Respondent: 45 minutes.
Frequency of Response: Once annually.
Estimated Number of Respondents: 90.

VA Form 10–316b—Other Grantee Performance Report:
Affected Public: Private sector.
Estimated Annual Burden: 90 hours.
Estimated Average Burden per Respondent: 30 minutes.
Frequency of Response: Twice annually.
Estimated Number of Respondents: 90.

VA Form 10–316c—Program Change Request:
Affected Public: Private sector.
Estimated Annual Burden: 45 hours.
Estimated Average Burden per Respondent: 15 minutes.
Frequency of Response: Twice annually.
Estimated Number of Respondents: 90.

VA Form 10–316d—Corrective Action Plan (CAP):
Affected Public: Private sector.
Estimated Annual Burden: 13 hours.
Estimated Average Burden per Respondent: 30 minutes.
Frequency of Response: Once annually.
Estimated Number of Respondents: 25.

VA Form 10–316e—Annual Grantee Financial Report:
Affected Public: Private Ssector.
Estimated Annual Burden: 68 hours.
Estimated Average Burden per Respondent: 45 minutes.
Frequency of Response: Once annually.
Estimated Number of Respondents: 90.

VA Form 10–316f—Other Grantee Financial Report:
Affected Public: Private sector.
Estimated Annual Burden: 90 hours.
Estimated Average Burden per Respondent: 30 minutes.
Frequency of Response: Twice annually.
Estimated Number of Respondents: 90.

VA Form 10–317a—Eligibility Screening:
Affected Public: Individuals or households.
Estimated Annual Burden: 3,015 hours.
Estimated Average Burden per Respondent: 30 minutes.
Frequency of Response: 67 times annually.
Estimated Number of Respondents: 90.

VA Form 10–317b—Intake Form & Assessments:
Affected Public: Individuals or households.
Estimated Annual Burden: 3,015 hours.
Estimated Average Burden per Respondent: 30 minutes.
Frequency of Response: 67 times annually.
Estimated Number of Respondents: 90.

VA Form 10–317c—Participant Satisfaction Survey:
Affected Public: Individuals or hHouseholds.
Estimated Annual Burden: 1,250 hours.
Estimated Average Burden per Respondent: 15 minutes.
Frequency of Response: Once annually.
Estimated Number of Respondents: 5,000.

VA Form 10–317d—Program Exit Checklist:
Affected Public: Individuals or households.
Estimated Annual Burden: 3,015 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: 67 times annually.

Estimated Number of Respondents: 90.

Columbia Suicide Severity Rating Scale (C–SSRS):

Affected Public: Individuals or households.

Estimated Annual Burden: 1,508 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: 67 times annually.

Estimated Number of Respondents: 90.

By direction of the Secretary:

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–24349 Filed 11–7–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0849]

Agency Information Collection Activity: Alternate Signer Certification

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 9, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0849'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0849'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 112–154, section 502, 38 U.S.C. 5101.

Title: Alternate Signer Certification (VA Form 21–0972).

OMB Control Number: 2900–0849.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–0972 is used to collect the alternate signer information necessary for VA to accept benefit application forms signed by individuals on behalf of Veterans and claimants. The information collected is used to contact the alternate signer for verification purposes. Without this information, VA would be unable to verify information related to the alternate signer who has been appointed to represent the claimant in the prosecution of VA claims, the extent of such representation, and access to appropriate records.

No changes have been made to this form. The respondent burden has increased due to the estimated number of receivables averaged over the past year.

Affected Public: Individuals and households.

Estimated Annual Burden: 4,644 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 18,575.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–24321 Filed 11–7–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0905]

Agency Information Collection Activity: Legal Services for Homeless Veterans and Veterans At-Risk for Homelessness (LSV) Grant Program

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 9, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Janel Keyes, Office of Regulations, Appeals, and Policy (10BRAP), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Janel.Keyes@va.gov.* Please refer to ''OMB Control No. 2900–0905'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0905'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of

Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Legal Services for Homeless Veterans and Veterans At-Risk for Homelessness (LSV) Grant Program, VA Forms 10–318a–b and 10–319a–b.

OMB Control Number: 2900–0905.

Type of Review: Extension of a currently approved collection.

Abstract: Public Law 116–315, Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, provided authority for VA's Homeless Programs Office (HPO) to grant funding to eligible organizations that will coordinate or provide legal services to Veterans who are homeless or at-risk of homelessness. Several sections, including section 4202, of the Act were created to better serve Veterans who are struggling with homelessness or housing insecurity. Requests for funding by applicants are likely to exceed the amount of funding appropriated to the VA for these grants. The VA must collect data to prioritize applicants for funding. The legal authority for this data collection is found under 38 U.S.C., part I, chapter 5, section 527, which authorizes the collection of data that will allow measurement and evaluation of the Department of Veterans Affairs Programs, the goal of which is to improve health care and services for Veterans. This information collection includes grant eligibility criteria, application requirements, scoring criteria, constraints on the allocation and use of the funds, and other requirements necessary to implement this grant program.

HPO will use information collected to determine if an applicant is eligible to receive grant funding. HPO also will obtain information necessary to ensure that federal funds are awarded to applicants who are financially stable and have the capacity to conduct the program for which a grant is awarded. HPO could not perform its statutory obligation to administer the program if this data were not collected.

The following forms will be used to collect data for the LSV Grant Program:

VA Form 10–318a—Application for Legal Services Grant: This form will be used to collect data from eligible entities that are applying to be Legal Services for Homeless and At-Risk Veterans grant recipients. The items required in this application are used to determine if an applicant can provide legal services to Veterans. The scoring criteria is at VA's discretion and is not mandated by the statute.

VA Form 10–318b—Renewal Application for Legal Services Grant: This form will be used to collect data from existing grantees that were previously awarded Legal Services for Homeless and At-Risk Veterans grants.

VA Form 10–319a—Quarterly Grantee Performance Reports for Legal Services Grant: HPO will collect this information to ensure that grantees comply with program requirements described in 38 CFR part 79 and their grant agreements.

VA Form 10–319b—Program or Budget Change and Corrective Action Plan for Legal Services Grant: This information is needed for a grantee to inform HPO of significant changes that will alter their approved grant program. HPO may require grantees to initiate and develop corrective action plans, and submit to VA for approval.

Total Annual Number of Responses = 485.

Total Annual Time Burden = 4,070 hours.

VA Form 10–318a—Application for Legal Services Grant:

Affected Public: Private sector.

Estimated Annual Burden: 2,400 hours.

Estimated Average Burden per Respondent: 24 hours.

Frequency of Response: Once annually.

Estimated Number of Respondents: 100.

VA Form 10–318b—Renewal Application for Legal Services Grant:

Affected Public: Private sector.

Estimated Annual Burden: 1,500 hours.

Estimated Average Burden per Respondent: 20 hours.

Frequency of Response: Once annually.

Estimated Number of Respondents: 75.

VA Form 10–319a—Quarterly Grantee Performance Report:

Affected Public: Private sector.

Estimated Annual Burden: 150 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Four times per year.

Estimated Number of Respondents: 75.

VA Form 10–319b—Program or Budget Change and Corrective Action Plan (CAP):

Affected Public: Private Sector.

Estimated Annual Burden: 20 hours.

Estimated Average Burden per Respondent: 2 hours.

Frequency of Response: Once annually.

Estimated Number of Respondents: 10.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–24352 Filed 11–7–22; 8:45 am]

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Reader Aids

Federal Register

Vol. 87, No. 215

Tuesday, November 8, 2022

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The United States Government Manual	**741–6000**
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Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

65649–66074 1
66075–66226 2
66227–66534 3
66535–66934 4
66935–67350 7
67351–67540 8

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10482 65649
10483 66515
10484 66517
10485 66519
10486 66521
10487 66525
10488 66527
10489 66529
10490 66531
10491 66533

Administrative Orders:
Notices:
Notice of November 1, 2022 66225

7 CFR

1230 66535
3550 66075
3555 66075

Proposed Rules:
993 66958
1206 65683
1222 66960

10 CFR

Ch. I 66228
50 66227
52 66227
72 66539
429 ..... 65651, 65856, 66935
430 66935
431 ..... 65651, 65856

Proposed Rules:
37 67397
72 66613
430 65687

12 CFR

Ch. X 66935, 66940
1006 65668

13 CFR

Proposed Rules:
120 66963

14 CFR

13 66544
39 ..... 65670, 66077, 66080, 66084, 66942, 67351, 67354, 67359, 67361
71 ..... 65673, 65674, 65675, 65677, 65679, 65680, 66229, 66544, 66946, 66947
73 66978

Proposed Rules:
21 67399
39 ..... 65694, 66615, 66619, 66623, 66625, 66971
71 ..... 66627, 66629, 66630, 66632, 66633, 66634, 66636, 66974, 66975

16 CFR

Proposed Rules:
453 66096
464 67413
465 67424

17 CFR

240 66412

21 CFR

866 66545
1271 65861
1301 66954

Proposed Rules:
80 66116

25 CFR

571 67363

Proposed Rules:
571 67430

28 CFR

2 66549
50 66239

29 CFR

Proposed Rules:
103 66890

33 CFR

100 66244
165 ..... 66086, 66550, 66552, 66955

Proposed Rules:
165 ..... 67430, 67433

34 CFR

600 65904
668 65904
674 65904
682 65904
685 65904

37 CFR

Proposed Rules:
385 66976

38 CFR

Proposed Rules:
36 65700

40 CFR

152 67364
180 ..... 66554, 67371, 67375

Proposed Rules:
52 ..... 65714, 65719, 66086, 66091, 66985
81 65719
84 66372

42 CFR

400 66454

406 66454
407 66454
408 66454
410 66454
412 66558
413 ..... 66558, 67136
423 66454
431 66454
435 66454
482 66558
484 66790
485 66558
495 66558
512 67136
Proposed Rules:
422 65723
423 65723
438 65723
498 65723

43 CFR

Proposed Rules:
2800 67306
2860 67306
2880 67306
2920 67306

46 CFR

10 66575
11 66575
15 66575

49 CFR

Proposed Rules:
218 66638

50 CFR

17 ..... 66093, 66591, 67380
21 66094
622 66608
648 66245
660 66609
679 66611
Proposed Rules:
Ch. 1 66255
17 66987
20 66247
648 66120
679 ..... 65724, 66125
680 65724

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 20, 2022

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