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Presidential Documents

Title 3—

The President

Proclamation 10492 of November 7, 2022

Veterans Day, 2022

By the President of the United States of America

A Proclamation

Today, we honor generations of patriots who have earned the title of ''American veteran''—a badge of courage that unites the finest group of former service members the world has ever known. With their selfless sacrifice, our Armed Forces have forged and defended the very idea of America—a promise of freedom and equality, democracy and justice, possibility and hope. We owe them an incredible debt that can never be fully repaid.

Veterans Day is personal to the Biden family. We have felt the pride that comes with seeing your child wear the uniform of the United States and the pain of long deployments far from home. We know what it is like to pray every day for the safe return of someone you love. And we have stood in awe of our veterans who carry the lasting wounds of war. We pledge to continue the work to return our prisoners of war and those still missing in action and commit to remember the sacrifice of the families of those who have served. As both a father and Commander in Chief, I firmly believe that our one truly sacred obligation as a Nation is to properly prepare and equip the brave women and men we send into harm's way and to care for them and their loved ones when they return home.

That is why I was so proud to sign the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act, or PACT Act—the most significant expansion of benefits and services for our veterans in more than 30 years. As the name suggests, the PACT Act fulfills a promise to our veteran community. By funding new facilities, enabling better research, and expanding care and compensation for veterans exposed to toxic substances during their military service—as well as helping their survivors access life insurance, home loan assistance, tuition benefits, and monthly stipends—we are giving back to those who have given so much for all of us. This law bolsters other bills I have signed this year to improve health care for veterans—from providing mammograms and screenings for service members exposed to toxins to compensating veterans who developed cancer and other medical conditions from our World War II nuclear program. And to ensure we continue to meet our sacred obligation to our veteran families, caregivers, and survivors, the First Lady's Joining Forces initiative is helping military spouses find jobs, supporting children of service members in classrooms, and extending physical, mental, and emotional services to families.

The Department of Veterans Affairs (VA) and other Federal agencies are also working around the clock to end veteran suicide and veteran homelessness. As part of a comprehensive public health strategy that we released last year, the VA is funding community-led suicide prevention programs that meet veterans where they are, increasing public awareness about the importance of firearm storage in preventing suicides, and requesting billions more from the Congress to improve mental health care services for patients across the country. At the same time, with funding from my American Rescue Plan, the VA is on track to permanently house 38,000 homeless veterans this year alone.

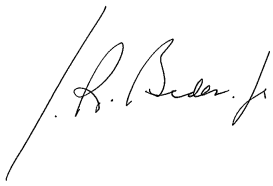
Fulfilling our Nation's promise to our veterans and military families also means ensuring that everyone who serves—no matter their gender identity, sexual orientation, race, or religious background—feels safe and valued in the ranks. Since coming into office, I have made historic reforms to the military justice system that enhance safety and protections for service members and veterans who have experienced sexual assault or harassment. Secretary McDonough issued a zero-tolerance policy and announced that harassment and sexual assault, including sexual harassment and gender-based harassment, will not be tolerated within the Department of Veterans Affairs. This is also a priority for Secretary of Defense Lloyd Austin, who has made preventing sexual assault and restoring the trust in the military justice processes a constant focus. Additionally, we reversed the discriminatory ban on transgender service and directed a review of all policies and practices to ensure greater inclusivity of LGBTQ+ veterans.

In every generation, America's veterans have been willing to give all for that which we hold sacred—freedom, justice, and democracy. They have served selflessly, sacrificed greatly, and shouldered the burden of freedom quietly, asking no glory for themselves. Today, let us honor them by living up to their example—putting service before self, caring for our neighbors, and working passionately to build a more perfect Union worthy of all those who protect our lives and liberty.

In respect and recognition of the contributions our veterans and their families, caregivers, and survivors have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor our Nation's veterans.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim November 11, 2022, as Veterans Day. I encourage all Americans to recognize the valor, courage, and sacrifice of these patriots through appropriate ceremonies and private prayers, and by observing two minutes of silence for our Nation's veterans. I also call upon Federal, State, and local officials to display the flag of the United States of America and to participate in patriotic activities in their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of November, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.



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Rules and Regulations

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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.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 315, 432, and 752

RIN 3206–AO23

Probation on Initial Appointment to a Competitive Position, Performance-Based Reduction in Grade and Removal Actions and Adverse Actions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing probation on initial appointment to a competitive position, performance-based reduction in grade and removal actions, and adverse actions. The final rule rescinds certain regulatory changes made effective on November 16, 2020, and implements new statutory requirements for Merit Systems Protection Board (MSPB) procedural and appeal rights for dual status National Guard technicians for certain adverse actions. OPM believes the final revisions will support implementation of an Executive order to empower agencies to rebuild the career Federal workforce and protect the civil service rights of their employees, while preserving appropriate mechanisms for pursuing personnel actions where warranted.

DATES: Effective December 12, 2022.

FOR FURTHER INFORMATION CONTACT: Timothy Curry by email at *employeeaccountability@opm.gov* or by telephone at (202) 606–2930.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing revised regulations governing probation on initial appointment to a competitive position; performance-based reduction in grade and removal actions; and adverse actions, mindful of the President's expressed policy direction and under its congressionally granted authority in 5 U.S.C. 3321, 4305, 4315, 7504, 7514 and 7543. On January 22, 2021, President Biden issued Executive Order (E.O.) 14003 on ''Protecting the Federal Workforce'' which, among other things, revoked E.O. 13839 and directed agencies to ''as soon as practicable, suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding, the actions'' implementing various E.O.s, including E.O. 13839, ''as appropriate and consistent with applicable law.'' E.O. 14003 states that ''[c]areer civil servants are the backbone of the Federal workforce, providing the expertise and experience necessary for the critical functioning of the Federal Government. It is the policy of the United States to protect, empower, and rebuild the career Federal workforce. It is also the policy of the United States to encourage employee organizing and collective bargaining. The Federal Government should serve as a model employer.''

These revisions both effect statutory requirements and support agency efforts in implementing E.O. 14003, as well as advance agencies' efforts to fulfill their mission and achieve superior results for the American people. With respect to statutory requirements, we have made changes to be consistent with the requirements for dual status National Guard technicians in Public Law 114–328 (Dec. 23, 2016). Additionally, we have made regulation changes to be consistent with statutory requirements for procedures under the Whistleblower Protection Act. Therefore, in accordance with E.O. 14003, OPM issued proposed regulations published at 87 FR 200, January 4, 2022, to rescind portions of the final rule published at 85 FR 65940, October 16, 2020. The proposed regulations provide agencies the necessary tools and flexibility to address matters related to unacceptable performance and misconduct or other matters contrary to the efficiency of the service, by Federal employees when they arise, consistent with the policies of E.O. 14003. Pursuant to Public Law 114–328 (Dec. 23, 2016), OPM also proposed to revise its regulations on coverage for performance-based actions and adverse actions appealable to the MSPB in accordance with statutory changes that extend title 5 rights to dual status National Guard technicians under certain conditions.

After consideration of public comments on the proposed regulations, OPM is now issuing these revised regulations. These revisions not only implement statutory requirements and support agency efforts in implementing E.O. 14003 but also facilitate the ability of agencies to deliver on their mission and provide the best possible service to the American people.

Public Comments

In response to the proposed rule, OPM received 31 comments during the 30-day public comment period from a variety of individuals, including current and retired Federal employees, labor organizations, Federal agencies, management associations, organizations, a law firm, and the general public. At the conclusion of the public comment period, OPM reviewed and analyzed the comments. In general, comments ranged from enthusiastic support of the proposed regulations to categorical rejection. Many commenters expressed support or non-support only on particular portions of the regulations without addressing other aspects of the rule. Many of those in support of the regulatory changes cited the benefit of returning more discretion to agencies to allow them to best manage the Federal workforce with efficiency and effectiveness.

OPM's discussion in the supplementary information of *Santos* v. *Nat 'l Aeronautics and Space Admin.,* 990 F.3d 1355 (Fed. Cir. 2021), received a significant number of comments. The national unions and other commenters except for one agency who specifically mentioned *Santos* voiced objection to OPM's discussion regarding *Santos,* with a national union requesting that the discussion be clarified or withdrawn. The agency stated no opinion on OPM's treatment of *Santos.*

The clean-record agreement was another issue that received a substantial number of comments. Some commenters expressed agreement with the clean-record settlement portion of the rule. Other commenters vigorously commended the restoration of clean-record agreements but disagreed with certain aspects of this provision, and finally there were commenters who disagreed with the rescission.

The commenters who categorically disagreed with the proposed rule and those commenters who were silent on the rule overall and only cited

opposition to particular portions raised various areas of concern such as: OPM's position on *Santos,* clean-record agreements, removal of the notification for the end of the probationary period, the rescission of the requirements regarding penalty determination, the agency's obligation to provide assistance to an employee who has demonstrated unacceptable performance, and the lifting of the requirement to issue the decision on a proposed removal within 15 business days of the conclusion of the employee's opportunity to respond.

OPM reviewed and carefully considered all comments in support of and in opposition to the proposed changes. The significant comments are summarized below, along with the suggestions for revisions that we considered and did not adopt. In addition to substantive comments, we received some comments that were not addressed below because they were beyond the scope of the proposed changes to regulations or were vague or incomplete. Finally, comments that were received after the due date for comments or not identified by the docket number or Regulation Identifier Number (RIN) for this proposed rulemaking, as required by the notice of proposed rulemaking, were not addressed below.

In the first section below, we address general or overarching comments. In the sections that follow, we address comments related to specific portions of the regulations.

General Comments

National unions, as well as some organizations, Federal employees, and members of the public expressed strong support for many of the changes. Some national unions urged OPM to issue its final rule promptly, notwithstanding their objections to portions of the rule. A national union remarked that OPM's adoption of the proposed rule changes as written as soon as possible would provide immediate benefit to the employees they represent. Another national union declared that rescission of certain regulatory changes that implemented E.O. 13839 and which were made effective on November 16, 2020, was not only necessary because of E.O. 14003 but also ''sound policy.'' This national union declared that given E.O. 14003's explicit direction, OPM's rescission of its November 2020 regulatory changes is ''appropriate and indeed imperative as a matter of law'' and that ''[r]escission is also sound policy.'' Further, the national union emphasized that E.O. 13839 and OPM's implementing regulations ''eviscerated federal employees' rights and were grossly unfair to hard working civil servants.'' Another national union observed that the proposed rule would bring OPM's regulations into better alignment with the plain text of chapter 43 and chapter 75 of title 5 of the U.S. Code. The national union further asserted that ''Title V does not elevate the need for efficient government above the requirement of due process and fundamental fairness for federal employees.'' Additionally, this national union stated that ''[r]escission would therefore be appropriate even in the absence of Executive Order 14003 because the changes made by the 2020 Rule were contrary to law.'' A local union endorsed the rulemaking action, especially restoring the ability to make clean-record agreements.

Some organizations stated that they generally supported revocation of E.O. 13839 through the issuance of E.O. 14003 and as a result welcomed OPM's rulemaking. An organization reported that their members have observed the damaging effects of the November 2020 rule that this organization predicted in their comments at the time. Another organization concurred with this observation. These organizations, one concurring with the other's comment submissions, welcomed OPM's compliance with E.O. 14003 in the present rulemaking and looked forward to ''the striking of the harmful provisions of E.O. 13839 from the Code of Federal Regulations at the earliest practicable date.''

A commenter said the proposed rule was a ''necessity'' in certain areas of the Federal Government. Another individual voiced support for the changes as well and remarked that ''[t]his proposed rule is [a] necessity in high flux parts of federal agencies.'' Many commenters in support of the regulatory changes noted the benefit of returning more discretion to agencies to allow them to best manage the Federal workforce with efficiency and effectiveness.

Pursuant to E.O. 14003, OPM has reviewed the prior regulations, which implemented certain requirements of E.O. 13839, and concluded that some provisions of the amendments of November 2020 are contrary to the current policy of the United States. The final rule effectuates E.O. 14003 requirements and allows agencies to implement policies most suitable for each respective agency based on its unique circumstances. OPM believes the rule establishes procedures and requirements needed to support managers in addressing unacceptable performance and misconduct and related matters impacting the successful operation of the Federal Government while simultaneously preserving employees' rights and protections.

An individual commenter asked ''[t]o what extent will this rule affect removal and adverse actions?'' As discussed in each pertinent portion of this final rule, this rulemaking affects adverse actions, including removals, in several ways. Regarding penalty considerations, the rule rescinds these provisions and explains in detail the reasons for doing so and OPM's views. They are: an express provision that an agency is not required to use progressive discipline; adoption of the test for appropriate comparators in *Miskill* v. *Social Security Administration,* 863 F.3d 1379 (Fed. Cir. 2017); adoption of the standard that requires consideration of, among other factors, an employee's disciplinary record and past work record as applied by the Merit Systems Protection Board (MSPB or the Board) in *Douglas* v. *Veterans Administration,* 5 M.S.P.R. 280 (1981); and the requirement that suspension should not be a substitute for removal. As well, OPM removed the express language limiting response and decisional periods for adverse actions, including removals. In addition, as discussed above, the rule changes the coverage criteria for dual status National Guard technicians to be consistent with Public Law 114–328 for certain adverse actions.

Other commenters expressed concerns about the proposed rule. An organization commented that ''the wholesale rescinding of these commonsense ideas was not only premature, but ill-advised and harmful to the overall management of the federal workforce.'' Another individual expressed that ''the proposed rules do the exact opposite of its stated purpose to empower agencies to rebuild the career Federal workforce and protect the civil service rights of their employees.'' This commenter went on to state that the proposed rule instead limits both an agency's ability to take an action against a Federal employee when warranted and the agency's ability to rebuild a productive Federal workforce. Also expressing disagreement with the rescissions of certain regulatory changes that implemented E.O. 13839 and which were made effective on November 16, 2020, an individual said it was ''an attack'' on the former administration. Additionally, a commenter stated that the November 2020 regulations should remain as they were better suited to hold a workforce accountable. Another commenter supported keeping the regulations the way they were, except for the rescission of the clean-record agreement, because ''[s]ome of the

changes implemented by the subject regulations made it easier to ensure good order and discipline within the civilian workforce and to ensure that the relevant processes are more streamlined than before them. There are certain aspects that should be kept.''

We disagree with the general assertions contesting promulgation of these rules and the characterization that they are ill-considered, detrimental, and ineffective. We also do not concur with the commenters' depiction that the proposed rules are restrictive and the prior rules were better suited for workforce accountability. E.O. 14003 requires OPM to rescind portions of the OPM final rule which implemented certain requirements of E.O. 13839. In fact, E.O. 14003 directs agencies to ''as soon as practicable, suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding, the actions.'' We believe that the proposed revisions retain applicable statutory mandates while continuing to provide agencies the necessary tools and flexibility to address matters related to unacceptable performance and misconduct or other matters contrary to the efficiency of the service by Federal employees when they arise, consistent with the policies of E.O. 14003. For example, this final rule provides several necessary tools, such as previous longstanding flexibilities enjoyed by agencies in how to address performance issues with their employees under chapter 43 of title 5 of the United States Code regarding decisions on when and how performance assistance is provided to employees. The final rule also restores agencies' ability to resolve informal and formal complaints at an early stage and with minimal costs to the agency.

A management association stated they are ''[o]verall extremely concerned by and confused about the proposed changes to current regulations.'' Another management association stated that it was ''deeply concerned by these proposals and the impact they may have across our workforce.'' One of these management associations declared with regard to the November 2020 rule: ''where clarity had been provided, it has been replaced with opacity and confusion.'' Correspondingly, the other management association asserted that the clarity of the November 2020 rule ''has been replaced with bureaucratic doublespeak.''

We disagree with the management associations' claim that the proposed rule is obscure and confusing. We do not believe that the rule is unclear or is difficult to comprehend as these regulatory changes restore well-established principles and practices that are familiar to Federal agencies and have proven to be successful tools to support managers in addressing unacceptable performance and promoting employee accountability for performance-based reduction-in-grade, removal actions, and adverse actions while recognizing employee rights and protections.

Two management associations expressed that it is ''disconcerting'' that the proposed rule is based entirely on a shift in policy rather than on well-founded data and evidence which should be the approach used by OPM. They emphasized this point by stating that OPM has virtually no data on the extent to which adverse actions were pursued under the current regulations that are being proposed for rescission, and OPM's lack of collection of basic data or discontinuance of data collection from agencies on performance-based and adverse actions and settlement agreements ''is not a way to run the largest employer in the nation.''

An agency's ability to repeal an existing regulation through notice-and-comment rulemaking is well-grounded in the law. The APA defines ''rule making'' to mean ''agency process for formulating, amending, or repealing a rule.'' 5 U.S.C. 551(5). Agencies ''are free to change their existing policies as long as they provide a reasoned explanation for the change.'' *See Encino Motorcars, LLC* v. *Navarro,* 136 S. Ct. 2117, 2125 (2016); *see also* 82 FR 34901; 83 FR 32231. Agencies may seek to revise or repeal regulations based on changes in circumstance or changes in statutory interpretation or policy judgments. *See, e.g., FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 514–15 (2009) (''*Fox*''); *Ctr. for Sci. in Pub. Interest* v. *Dep't of Treasury,* 797 F.2d 995, 998–99 & n.1 (D.C. Cir. 1986). Indeed, the agencies' interpretation of the statutes they administer are not ''instantly carved in stone''; quite the contrary, the agencies ''must consider varying interpretations and the wisdom of [their] policy on a continuing basis, . . . for example, in response to . . . a change in administrations.'' *Nat'l Cable & Telecommunications Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 981–82 (2005) (''*Brand X*'') (internal quotation marks omitted) (quoting *Chevron U.S.A., Inc.* v. *NRDC,* 467 U.S. 837, 863–64 (1984)) (citing *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 59 (1983) (Rehnquist, J., concurring in part and dissenting in part)). Revised rulemaking based ''on a reevaluation of which policy would be better in light of the facts'' is ''well within an agency's discretion,'' and ''[a] change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency's reappraisal'' of its regulations and programs. *Nat'l Ass'n of Home Builders* v. *EPA,* 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012) (''*NAHB*'').

Agencies are free to change their existing policies as long as they provide a ''reasoned'' explanation. *See, e.g., National Cable & Telecommunications Assn.,* 545 U.S. at 981–982; *Chevron,* 467 U.S. at 863–864. This does not require the agency to ''demonstrate to a court's satisfaction that the reasons for the new policy are better than the reasons for the old one.'' *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 514, (2009). A stronger justification may be required if the agency's prior position ''may have engendered serious reliance interests that must be taken into account.'' *Encino Motorcars, LLC* v. *Navarro,* 136 S. Ct. 2117, 2131 (2016) (internal quotation marks and citation omitted). Here, however, the 2020 final rule was effective on November 16, 2020, and Executive Order 14003 issued just two months later, on January 22, 2021. Under the circumstances, OPM does not believe that the November 2020 final rule was in effect long enough to create significant reliance interests because of the brief time period to effect a change in agency policy to conform to any new final OPM regulation or for agencies to actually apply any change that may have been made. With almost 57% of the Executive Branch workforce represented by labor unions in over 1,800 bargaining units, agencies also needed to satisfy any applicable collective bargaining obligations with unions prior to implementation of the new final OPM regulation and related agency policy which conforms to the OPM regulation.

5 CFR Part 315, Subpart H—Probation on Initial Appointment to a Competitive Position

The regulations at subpart H of 5 CFR part 315 provide information regarding agency action during a probationary period. The November 2020 amendment required agencies to notify supervisors, at least three months prior to expiration of the probationary period, that an employee's probationary period is ending, and then again one month prior to expiration of the probationary period, and to advise a supervisor to make an affirmative decision regarding the employee's fitness for continued employment or otherwise take appropriate action. Under its authority at 5 U.S.C. 3321, OPM proposed to rescind its November 16, 2020,

amendment to regulations at § 315.803(a) for two reasons. First, E.O. 14003 directs OPM to rescind any regulations effectuated by E.O. 13839, as appropriate and consistent with applicable law. Second, OPM has concluded that the amendment to the regulations at § 315.803(a), although useful to some agencies that may not have used the probationary period to full effect, placed unnecessarily restrictive procedural requirements on agencies regarding how agencies administer the probationary period. OPM has reconsidered the wisdom of a categorical, centralized rule, and has concluded that it is more efficacious and eminently reasonable to rescind this provision so that agencies feel free to adopt any procedures that work best for them for reminding supervisors not to overlook the expiration of employee probationary periods.

Some national unions supported OPM's proposed rescission of the probationary period expiration notice requirements with one national union describing the current requirements as being ''unnecessary''. This national union expounded that these requirements sent the wrong message ''that termination should be at the forefront of a supervisor's mind.'' Further, this commenter expressed hope that OPM's proposed change will reinforce to agencies that supervisors should instead be focused on helping probationary employees succeed. Another national union commented that OPM is correct to amend this provision. However, this national union mischaracterized the change by stating that OPM is ''eliminating the language requiring an affirmative supervisory determination prior to the expiration of the probationary period''. The former regulation merely provided for specific points during an employee's probationary period (*i.e.,* three months and one month) at which agencies must give advance notice to supervisors of expiration of probationary periods.

This commenter further asserted that the current regulation created the incorrect impression that an employee must receive an affirmative supervisory determination to successfully complete the probationary period. This national union added that the probationary period for Federal civilian employees, however, is controlled by statute and contains no such requirement.

While OPM recognizes one national union's support of the rescission of the November 2020 probationary period amendments, OPM notes that it is incorrect to interpret the proposed rule at § 315.803(a) as instructing agencies to focus on ''helping probationary employees succeed'' during the probationary period rather than termination. The probationary period is the final step in the examination process. Thus, probationers are candidates for final appointment, and, accordingly, the focus of supervisors should be to assess probationers to determine whether they should be retained beyond the probationary period. At most, the November 2020 regulatory amendment reminded supervisors of their responsibility to make an affirmative decision and not allow a probationer to become a career employee merely by default; it did not alter the decision-making process nor did it in any way alter the regulatory structure currently in place that governs the decision-making process for probationers.

Another commenter recommended changing the language ''The agency shall utilize the probationary period as fully as possible'' to the language ''The agency shall utilize the probationary period fully'' in the first sentence of § 315.803(a).

We are not adopting this recommendation because the proposed regulatory language better emphasizes that an agency must utilize the probationary period to the maximum extent based on the particular facts and circumstances, recognizing that the probationary period is the last and crucial step in the examination process. Supervisors must determine the employee's fitness for continued employment; this can be assessed in several ways, including but not limited to, closely monitoring and documenting the employee's performance and progress during the employee's first year of employment and providing timely and meaningful feedback to the employee; providing training that would enable the employee to more successfully perform the duties of the position; and placing the employee on a performance improvement plan as appropriate.

Despite some support for the proposed rule, OPM received comments from those who expressed opposition and concern. One organization expressed that the probationary period has not been effectively used and supported the requirement to notify management at the 90-day point. This commenter was perplexed by the rescission of the requirement to notify management at the 90-day point of an employee's probationary period which they viewed as an ''innocuous notice.'' The organization stated that they understood the rescission was required by E.O. 14003 and appreciated that OPM continues to encourage agencies to provide managers with notifications when probationary periods are expiring.

Two management associations also strongly opposed OPM's proposal to rescind the requirements at § 315.803(a). In the management associations' view, ''[t]his issue is too important to leave up to agencies, who have proven themselves incapable of self- regulation and proper use of the probationary period.'' The management associations stated that probationary periods are a critical tool for effective employee onboarding. These commenters discussed ''countless reports'' from the MSPB and Government Accountability Office (GAO) that highlight the ''government's inconsistent and poor use of the probationary period for new hires and for new supervisors.'' These management associations also asserted that a core finding of those reports is that managers do not properly use the probationary period because managers are not reminded when an employee's probationary period is reaching its conclusion. They contended that when the probationary period ends, employees are automatically deemed fit for service. These commenters further maintained that the probationary period ''is meant to be the last crucial step in the examination process, yet instead, it is largely obsolete and formalistic.'' The management associations stated that to improve the practical usefulness of probationary periods, agencies need to create systems for providing many advance notices that an employee's probationary period is concluding and require supervisors to make an affirmative determination regarding the employee's completion of their probationary period. The commenters declared that when the probationary period is not used appropriately then employees are not ''set up for success and may be entrenched in roles they cannot perform.'' One association opined that determinations regarding probationary periods should be made by permanent managers while another association stated that it is imperative that agencies make appropriate use of the probationary periods for not only new hires, but also for new supervisors and executives.

OPM will not make any revisions based on these comments. As stated earlier, E.O. 14003 directs OPM to rescind any regulations effectuated by E.O. 13839, as appropriate and consistent with applicable law. OPM has concluded that the amendment to the regulations at § 315.803(a) placed centralized categorical procedural requirements on how agencies administer the probationary period. OPM believes these requirements

prevented agencies from implementing policies most suitable for each respective agency based on their unique circumstances. While agencies are encouraged to notify supervisors that an employee's probationary period is ending, OPM believes the frequency and timing of notifications should be left up to the discretion of each agency. The commenters noted the critical nature of the probationary periods, and OPM guidance has stated previously that the probationary period is the last and crucial step in the examination process. The probationary period is intended to give the agency an opportunity to assess, on the job, an employee's overall fitness and qualifications for continued employment and permit the termination without chapter 75 procedures of an employee whose performance or conduct does not meet acceptable standards to deliver on the mission. Thus, it provides an opportunity for supervisors to address problems expeditiously, with minimum burden to the agency, and avoid long-term problems inhibiting effective service to the American people. Employees may be terminated from employment during the probationary period for reasons including demonstrated inability to perform the duties of the position, lack of cooperativeness, or other unacceptable conduct or poor performance. As a matter of good administration, agencies should ensure that their practices make effective use of the probationary period. While OPM proposed to rescind a government-wide requirement to notify supervisors at prescribed intervals when an employee's probationary period is ending, agencies would not be precluded from providing such notifications under their own authorities and are strongly encouraged to do so. OPM plans to issue a Chief Human Capital Officers (CHCO) Memorandum to encourage agencies to adopt a notification process.

5 CFR Part 432—Performance-Based Reduction in Grade and Removal Actions

Section 432.102 Coverage

Section 432.102 identifies actions and employees covered by this part. The final rule at § 432.102 updates coverage to align with the National Defense Authorization Act (NDAA) for Fiscal Year 2017, Public Law 114–328 (Dec. 23, 2016). Specifically, section 512(a)(1)(C) of the 2017 NDAA provides appeal rights under 5 U.S.C. 7511, 7512, and 7513 to dual status National Guard technicians for certain adverse actions. Section 512(c) repealed 5 U.S.C. 7511(b)(5), which excluded National Guard technicians from the definition of ''employee.''

The repeal of 5 U.S.C. 7511(b)(5) and the coverage of National Guard technicians under 5 U.S.C. 7511, 7512, and 7513 required that OPM review 5 U.S.C. 4303. Section 4303(e) provides that any employee who is a preference eligible, in the competitive service, or in the excepted service and covered by subchapter II of chapter 75, and who has been reduced in grade or removed under this section is entitled to appeal the action to the MSPB under section 7701.

Accordingly, MSPB appeal rights must be extended to National Guard technicians who are defined in section 4303(e) for consistency with the statutory requirements in Public Law 114–328. OPM will revise paragraphs (b) and (f) of § 432.102 to reflect that certain performance-based actions against dual status National Guard technicians are no longer excluded. Specifically, the final rule adds as an exclusion an action against a technician in the National Guard concerning any activity under section 709(f)(4) of title 32, United States Code, except as provided by section 709(f)(5) of title 32, United States Code. In addition, the final rule removes the exclusion at § 432.102(f)(12): ''A technician in the National Guard described in 5 U.S.C. 8337(h)(1), employed under section 709(b) of title 32.'' The impact of the repeal of 5 U.S.C. 7511(b)(5) on adverse actions taken under chapter 75 will be further discussed below in the Supplementary Information for § 752.401.

Two organizations, one concurring with the other's comment submissions, expressed support for the extension of civil service protections to National Guard technicians under Public Law 114–328 as well as support for OPM's inclusion of an implementing regulation for that statute in this rule.

Section 432.104 Addressing Unacceptable Performance

This section provides requirements in chapter 43 of title 5 of the United States Code for addressing unacceptable performance. While the regulatory amendments to part 432 made effective November 16, 2020, are within OPM's existing authority under 5 U.S.C. 4303 and 4305, E.O. 13839 was the catalyst for the changes. OPM proposed to amend the regulation at § 432.104 to remove the following language: ''The requirement described in 5 U.S.C. 4302(c)(5) refers only to that formal assistance provided during the period wherein an employee is provided with an opportunity to demonstrate acceptable performance, as referenced in 5 U.S.C. 4302(c)(6). The nature of assistance provided is in the sole and exclusive discretion of the agency. No additional performance assistance period or similar informal period shall be provided prior to or in addition to the opportunity period provided under this section.'' In addition, OPM will re-insert at § 432.104 a statement that was in the regulation prior to the November 2020 amendment: ''As part of the employee's opportunity to demonstrate acceptable performance, the agency shall offer assistance to the employee in improving unacceptable performance.''

Some national unions expressed support for OPM's proposed changes to § 432.104. One union stated that OPM's November 2020 regulatory changes limited the types of assistance and opportunities that agencies could offer to employees to help them demonstrate acceptable performance. The union added, ''Employees deserve a full and fair opportunity to improve their performance with assistance from their employer.'' Moreover, this national union stated agencies should have the needed flexibility to help employees improve their performance to an acceptable level. One of these national unions offered comments of support on sections §§ 432.104 and 432.105 which were identical to each other and are addressed in § 432.105.

Indeed, this rule reverts to the language in § 432.104 prior to the November 2020 amendments regarding the agency's obligation to provide assistance to an employee who has demonstrated unacceptable performance. The language restates the statutory requirement described in 5 U.S.C. 4302(c)(5) that agencies are obligated to provide performance assistance during the opportunity period. In the proposed rule, OPM emphasized that the employee has a right to a reasonable opportunity to improve, which includes assistance from the agency in improving unacceptable performance.

Though two organizations expressed general support for this rulemaking, they mischaracterized OPM's November 2020 rulemaking. One organization, with which the other concurred, erroneously referred to ''rules which set fixed durations for Performance Improvement Periods (PIPs)'' and stated that such rules ''resulted in arbitrarily inflexible PIP timeframes rather than the prior tailoring of PIPs to the nature of the work involved''. The organizations credit OPM with restoring agencies' discretion in these matters. OPM points out that there was no restriction on the duration of PIPs or tailoring of PIPs to

the nature of the work involved in our prior rulemaking. Specifically, OPM did not amend the language in § 432.104 that reads, ''For each critical element in which the employee's performance is unacceptable, the agency shall afford the employee a reasonable opportunity to demonstrate acceptable performance, commensurate with the duties and responsibilities of the employee's position.''

Two management associations disagreed with OPM's proposal to amend § 432.104. The management associations expressed concern that the proposed revisions to § 432.104 would rescind OPM's prior regulation governing the process for addressing unacceptable performance. The organizations asserted, ''OPM's proposed regulation would return performance management to allow for additional processes not provided for in the plain language reading'' of 5 U.S.C. 4302 and 4303, which the organizations also described as ''extra-statutory protections'' which would be ''at the expense of taxpayer accountability at a time when public trust in government remains dangerously low, regardless of political ideology.'' The organizations stated that research indicates only about one-quarter of Americans say they can trust the government in Washington to do what is right ''just about always'' (2%) or ''most of the time'' (22%) and that public distrust is deepened each time administrative agencies impose additional burdens on a supervisor's capacity to hold employees accountable. One of the associations shared that its ''members are effectively unable to remove an employee for unacceptable performance. Instead, they find themselves hoping to identify misconduct because they know those cases are easier to adjudicate and have a clear path to removal.'' Both associations stated that employee protections are critical to the merit system, and the ''imposition of excessive hurdles to successful employee performance management frustrates the effective functioning of our government and is not in the public interest.'' In further criticism, one of these commenters added that this ''imposition'' also ''discourages well-qualified candidates from joining leadership's ranks.''

OPM disagrees with the associations' characterization that the rescission of the November 2020 changes to § 432.104 allows for extra-statutory protections at the expense of taxpayer accountability. OPM reiterates that agencies should take swift action to address and resolve poor performance, including by communicating clear performance standards and expectations to employees; providing periodic feedback on performance; making full use of the probationary period for employees; and maintaining effective lines of communication with a well-trained human resources staff and agency legal counsel. We believe that agencies can deliver on their mission and uphold public trust and at the same time provide employees assistance and a reasonable opportunity to demonstrate acceptable performance through efficient and effective use of chapter 43 and amended § 432.104.

A commenter recommended that OPM edit § 432.104 to read, ''For each critical element in which the employee's performance is unacceptable, the agency shall afford the employee 120 days to demonstrate acceptable performance, commensurate with the duties and responsibilities of the employee's position. There's only one year in the evaluation period.'' OPM disagrees with the commenter's suggested changes to the current regulation. First, OPM is opposed to prescribing an opportunity period of any specific length. We note that § 432.104 requires the agency to ''afford the employee a reasonable opportunity to demonstrate acceptable performance, commensurate with the duties and responsibilities of the employee's position.'' OPM believes the supervisor is in the best position to determine the length of the opportunity to demonstrate acceptable performance. The duration of the opportunity period should be left to the discretion of each agency, to include consultation with human resources staff and any applicable collective-bargaining agreement.

Second, it is unclear why the commenter suggested insertion of the sentence ''There's only one year in the evaluation period.'' OPM will not adopt the suggestion because it is unnecessary and contrary to OPM's performance management regulations in 5 CFR part 430. The length of a covered agency's appraisal period must be established in accordance with § 430.206 of title 5, Code of Federal Regulations, which states, ''The appraisal period generally shall be 12 months so that employees are provided a rating of record on an annual basis. A program's appraisal period may be longer when work assignments and responsibilities so warrant or performance management objectives can be achieved more effectively.'' The length of the appraisal period does not determine the length of the opportunity period.

A commenter disagreed with OPM's proposal to amend § 432.104, and in particular, OPM's rationale for the change. With regard to the statement ''[w]hile the regulatory amendments to part 432 made effective November 16, 2020, are within OPM's existing authority under 5 U.S.C. 4303 and 4305 . . . .'', the commenter asked if the current language is within the existing authority, why does it need to be changed. Moreover, the commenter explained, ''The current language does not place any unnecessary restrictions or limitations on agencies regarding their decision on providing assistance, it provides clear guidance on what the agency is responsible for in addressing performance issues.''

We disagree with this comment. Although the current language for regulatory amendments to part 432 made effective November 16, 2020, is within OPM's existing authority under 5 U.S.C. 4303 and 4305, the proposed changes also are a reasonable interpretation of the statute and within OPM's authority. The provision is being removed from part 432 through the required regulatory process. In addition, as we explained in the proposed rule, E.O. 13839 was the catalyst for the changes made effective on November 16, 2020. E.O. 14003, among other things, revoked E.O. 13839 and directed agencies to ''as soon as practicable, suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding, the actions'' implementing various Executive Orders, including E.O. 13839, ''as appropriate and consistent with applicable law.'' OPM did not require an Executive Order to effect this change.

As discussed in the proposed rule, OPM believes that the November 2020 amendments placed restrictions and limitations on agencies regarding decisions on when performance assistance is provided to employees that, upon further consideration, were unhelpful. These constraints removed previous flexibilities enjoyed by agencies in addressing performance issues with their employees under chapter 43. By placing these restrictions on agencies, OPM believes it was not supporting agencies and supervisors in determining the most effective assistance for struggling employees.

Section 432.105 Proposing and Taking Action Based on Unacceptable Performance

This section specifies the procedures for proposing and taking action based on unacceptable performance once an employee has been afforded an opportunity to demonstrate acceptable performance. The regulatory amendments to § 432.105(a)(1) that became effective November 16, 2020,

were made for consistency with and promotion of the principles of E.O. 13839 within the bounds of OPM's regulatory authority conferred by Congress. For consistency with and promotion of the principles of E.O. 14003 and in accordance with its authority under 5 U.S.C. 4302, OPM proposed to revise the regulation at § 432.105(a)(1).

The regulatory change to § 432.105(a)(1) removes the language: ''For the purposes of this section, the agency's obligation to provide assistance, under 5 U.S.C. 4302(c)(5), may be discharged through measures, such as supervisory assistance, taken prior to the beginning of the opportunity period in addition to measures taken during the opportunity period. The agency must take at least some measures to provide assistance during the opportunity period in order to both comply with section 4302(c)(5) and provide an opportunity to demonstrate acceptable performance under 4302(c)(6).''

OPM believes that the November 2020 amendment to the regulations at § 432.105(a)(1) placed too much emphasis on supervisory assistance taken prior to the beginning of the opportunity period and placed too little emphasis on supervisory assistance taken during the opportunity period and could result in some agencies relying too much on supervisory assistance outside of the opportunity period to support any performance-based action taken against an employee. Two national unions support OPM's proposal to rescind the language in 5 CFR 432.105(a)(1) that pertains to assistance offered to employees prior to and during an opportunity period. One of these national unions agreed with OPM that the November 2020 amendments placed too much emphasis on agencies providing assistance before the opportunity period and not enough emphasis on assistance given during the opportunity period. Similarly, another national union stated that OPM is correctly concerned that the regulatory language could result in agencies relying too much on supervisory assistance offered outside of the opportunity period to support a performance-based action against an employee. The union stated also, ''Employees are entitled to supervisory assistance and a meaningful opportunity to improve, and help offered both prior to *and* during the opportunity period will aid in achieving this.'' (emphasis in original)

After agreeing with OPM's rationale for the decision, a national union erroneously asserted that the prior regulatory changes were inconsistent with the language and intent of the Civil Service Reform Act (CSRA) ''because they failed to ensure that employees were provided with a reasonable opportunity to improve during the performance improvement period, which is a 'substantive guarantee[ ] and may not be diminished by regulation.' '' In support of this statement, the union cited *Sandland* v. *General Services Admin.,* 23 M.S.P.R. 583, 589 (1984). The union added that rescission of the prior amendments to §§ 432.104 and 432.105 will better enable agencies to effectively utilize the Federal workforce by requiring and encouraging agencies to provide employees with meaningful opportunities to improve. OPM believes the union is in error because the prior regulatory changes were not contrary to the language and intent of the CSRA. The changes did not inhibit an agency's ability to ensure that employees were provided with a reasonable opportunity to improve during the performance improvement period.

A commenter recommended that OPM edit § 432.105(a)(1) to insert ''120 days'' as the duration of the opportunity to demonstrate acceptable performance. The commenter made a similar suggestion to edit § 432.104 to require a 120-day opportunity period. As explained above under § 432.104, OPM will not prescribe an opportunity period of any length. The supervisor is in the best position to determine the length of the opportunity to demonstrate acceptable performance. OPM believes the duration of the opportunity period should be left to the discretion of each agency, to include consultation with human resources staff and any applicable provision of a collective-bargaining agreement.

Regardless of the length of the opportunity period, OPM reminds agencies that they must provide assistance during the opportunity period in accordance with 5 U.S.C. 4302(c)(5). OPM has long encouraged agencies to act promptly to address performance concerns as soon as they arise. Supervisors should continually monitor performance, provide ongoing feedback, and assist employees who exhibit performance issues. Agencies should also remain mindful that third parties (for example, arbitrators and judges) place a strong emphasis on a supervisor's effort to assist the employee in improving the employee's performance. Evidence that the supervisor engaged an employee in discussion, counseling, training, or the like prior to the opportunity period may assist the agency in developing a stronger case before a third party that the employee was given a reasonable opportunity to demonstrate acceptable performance before a performance-based action is taken.

Several commenters noted disagreement with OPM's inclusion in the supplementary information of a discussion of *Santos* v. *National Aeronautics and Space Admin.,* 990 F.3d 1355 (Fed. Cir. 2021). In particular, commenters stated that inclusion was unnecessary for the purposes of this regulation and that the *Santos* court relied on statutory language and not on OPM's interpretation in reaching its conclusion. In *Santos,* the court remarked on OPM's statement in prior supplementary information, and OPM's discussion of *Santos* was for the sole purpose of clarifying the meaning of that prior supplementary information. OPM's reference to *Santos* did not concern the proposed regulation. Accordingly, OPM is not making any changes to the proposed regulation in response to these comments. OPM further recognizes that, until and unless *Santos* is revisited, agencies proposing a removal under 5 U.S.C. 4302(c)(6) must establish that the employee performed unacceptably both prior to and during the performance improvement period.

In addition, § 432.105 addresses notice requirements when an agency proposes to take action based on an employee's unacceptable performance during or after the opportunity period once the employee has been afforded an opportunity to demonstrate acceptable performance. An agency must afford the employee a 30-day advance notice of the proposed action that identifies both the specific instances of unacceptable performance by the employee on which the proposed action is based and the critical element(s) of the employee's position involved in each instance of unacceptable performance. An agency may extend this advance notice period for a period not to exceed 30 days under regulations prescribed by the head of the agency. For the reasons listed in § 432.105(a)(4)(i)(B), an agency may further extend this advance notice period without OPM approval.

OPM proposed to revise the reason at § 432.105(a)(4)(i)(B)(*6*), which was derived from 5 U.S.C. 1208(b), because the statutory provision was repealed by section 3(a)(8) of Public Law 101–12, the Whistleblower Protection Act (WPA) of 1989. Section 1208(b) granted agencies the authority to extend the advance notice period for a performance-based action in order to comply with a stay ordered by a member of the MSPB. Concurrent with the repeal of 5 U.S.C. 1208(b), the WPA established 5 U.S.C. 1214(b)(1)(A)(i),

wherein the Office of Special Counsel is granted the authority to request any member of the Board to order a stay of any personnel action for 45 days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice. Further, under 5 U.S.C. 1214(b)(1)(B), the Board may extend the period of any stay granted under subparagraph (A) for any period which the Board considers appropriate. If the Board lacks a quorum, any remaining member of the Board may, upon request by the Special Counsel, extend the period of any stay granted under subparagraph (A). Therefore, OPM proposed to change the reason at subparagraph (B)(6) to read as follows: ''[t]o comply with a stay ordered by a member of the MSPB under 5 U.S.C. 1214(b)(1)(A) or (B).'' A national union supports this change.

Section 432.108 Settlement Agreement

Section 5 of E.O. 13839 established a requirement that an agency shall not agree to erase, remove, alter, or withhold from another agency any information about a civilian employee's performance or conduct in that employee's official personnel records, including an employee's Official Personnel Folder and Employee Performance File, as part of, or as a condition to, resolving a formal or informal complaint by the employee or settling an administrative challenge to an adverse personnel action. Such agreements have traditionally been referred to as ''clean-record'' agreements. Consistent with the rescission of E.O. 13839 and pursuant to its authorities under 5 U.S.C. 2951 to maintain personnel records and under 5 U.S.C. 1103(a)(5) to execute, administer, and enforce the law governing the civil service, OPM proposed to rescind § 432.108, Settlement agreements. OPM's proposal to rescind the current regulations for settlement agreements applies to actions taken under parts 432 and 752. All comments related to settlement agreements are addressed here in the **SUPPLEMENTARY INFORMATION** for the change at § 432.108, where the change appears first.

Three national unions, a local union, an organization, and five individual commenters expressed explicit support for OPM's proposal to rescind the settlement agreement provisions in 5 CFR parts 432 and 752. One of the national unions stated that settlements are less costly and burdensome than litigation or arbitration, and it is in employees' as well as management's interest to encourage resolution of employment disputes through settlement. The national union described a clean-record agreement as a reasonable and frequently used tool that agencies and employees should have. One particular benefit this union highlighted is the removal of the November 2020 regulations that allow an agency to cancel or vacate a personnel action when persuasive evidence casts doubt on the validity of the action. The union labeled this standard as confusing and said that it appears to wrongly place the burden of proof on the employee facing the action. This union welcomed OPM's proposed rescission of this language.

The second national union stated that removal of the regulatory provisions barring clean record settlements will lead to more efficient government administration while also promoting fairness and the effective resolution of employment disputes. This union added that the prior regulations created a substantial amount of unnecessary and wasteful litigation. Moreover, this union stated that the proposed changes will reduce the likelihood of ''arbitrary and capricious'' agency action by removing the incentive for agencies to unilaterally modify an employee's personnel record to avoid litigation.

The third national union voiced overall support for the rescission, though they objected to a related statement in the proposed rule that is discussed below along with other commenters who expressed a similar concern. Furthermore, a local union described clean-record agreements as an effective labor-management relations tool that benefits workers, management, and taxpayers. This local union added that agency and union officials at the lowest levels know how best to resolve issues and should have maximum flexibility to do so.

An organization also stated that the prohibition on clean-record agreements is harmful to employees and employers because it removes a valid and useful tool that promotes productive settlement of employment disputes. This organization shared that it has experience with several settlements that it reached on behalf of clients that were possible ''only because of the availability of clean record terms.'' Additionally, this organization expressed particular concern for public employees who engage in protected whistleblower activity, stating that they are often retaliated against with unfounded or exaggerated claims of poor performance or misconduct and unwarranted disciplinary actions. The organization stated further that the existing rule prevents agencies from correcting personnel records that employees allege contain false and retaliatory material. The organization also observed that in order to avoid lengthy and costly litigation over the accuracy and validity of matters reflected in the personnel record, the employee and the agency often wish to adopt a clean record as part of a settlement. This organization believes this rulemaking ''would reestablish a workable standard where agencies and employees can negotiate in good faith to provide employees with clean record settlements that do not obstruct future employment within or outside the federal government.'' Finally, the organization believes this rulemaking will conserve agency resources that otherwise would be used in protracted litigation and will make it more possible for employees who engaged in protected activity to move on after retaliation by former supervisors.

Another commenter discussed ''first-hand knowledge'' that regardless of the type or severity of the matter in dispute, or the organizational levels of the relevant parties, the prohibition on clean-record agreements has adversely impacted agency mission accomplishment and degraded the employees' well-being. The commenter stated that the prohibition has severely limited opportunities for agencies to efficiently and cost-effectively manage employee disputes at the lowest possible level in that settlement officials have few, if any, alternatives to taxpayer-funded monetary remedies and, consequently, have little incentive to resolve conflict early. The commenter represented that removing this overly broad restriction is greatly appreciated by all in the dispute resolution field, and will have significant, measurable positive outcomes throughout the Federal Government.

Several of the supportive commenters observed that the prohibition on clean-record agreements impacted settlement of employment discrimination or Equal Employment Opportunity (EEO) matters. OPM notes that for the purpose of this rule the settlement agreements addressed are those arising from agency actions covered by chapter 43 and chapter 75. One commenter stated that clean-record provisions have made it ''extraordinarily more difficult'' for employment law practitioners and employees to reasonably resolve matters they believe to be unjust without resorting to clogging the already taxed MSPB or Equal Employment Opportunity Commission systems. The commenter observed, ''Many matters could have been resolved with, for example[,] a simple restoration of leave

and removal of so-called bad paper or coding a termination as a resignation.'' Moreover, the commenter added that considerations ''such as job references and the interview process in general may serve to root out employees who should not be re-hired as government employees without tying the hands of those who are having [to] endure unnecessary litigation.''

Another supportive commenter stated that the courts are currently overwhelmed with employment discrimination cases, many of which could be resolved with a clean-record agreement. The commenter continued that it is costly and inefficient and results in unnecessary court congestion, unfair expense to employees and the agency, and backlogs cases affecting all subsequent cases. The commenter opined that if it takes a court order to remove a record, it should have taken a court order to place the record. The commenter asked, ''Why should the standard be higher to remove the record than to place the record in the first place?'' The commenter added that if the agency has discretion to put the record into official personnel files, the agency should have the discretion to remove them.

Yet another commenter stated that in representing several employees in Equal Employment Opportunity (EEO) complaints the ban on clean-record agreements has created incredible harm to many parties, but most of all to EEO complainants. The commenter remarked that the prohibition resulted in ''a huge waste of time'' in litigation which usually takes years when the employee just urgently needs to move on. Further, the commenter claimed that a few agency attorneys and judges confided privately about the waste of time and backlog. The commenter observed that all parties simply would have preferred to move on with little interest in litigation.

OPM recognizes the commenters' support for rescission of the clean-record provisions in §§ 432.108, 752.104, 752.203(h), 752.407, and 752.607.

Three management associations and four individuals disagreed with OPM's proposal to rescind the settlement agreement provisions. One management association described the prohibition on clean-record agreements as one of the most valuable parts of the rule that took effect in November 2020. This management association stated that some of its members were ''victims'' of clean-record settlements and ''lied to by previous supervisors because the agreement had a confidentiality clause.'' The management association said this is a practice that should be eliminated from the civil service. While another commenter discussed seeing clean-record agreements typically accompanied by ''muzzling supervisors and directing personnel to withhold or destroy information.'' This commenter recommended that OPM explicitly prohibit clean-record agreements in the regulation.

We believe that clean-record agreements should be an option for agencies to resolve informal and formal complaints when the agency deems it is in the best interests of effective and efficient management to achieve the agency's mission. OPM believes that alleged anecdotal instances of misuse of the discretion to use clean-record agreements should not deprive agencies of the option to use clean-record agreements to resolve informal and formal complaints and settle administrative challenges in a manner that balances the needs of the agency and fairness to the employee. In regard to the commenter's assertions that supervisors are silenced and personnel are directed to withhold or destroy information, we note that merit system principles require that Federal employees should maintain high standards of integrity, conduct, and concern for the public interest. After a settlement agreement is reached, the agency should properly advise supervisors on how to adhere to its terms regarding permitted disclosures and records management. As noted by supportive commenters, there are many disadvantages to prohibiting clean-record agreements: reduced likelihood of parties reaching a mutually agreeable resolution of informal or formal complaints; increase of costly litigation and arbitration; and crowding of the dockets of third-party investigators, mediators, and adjudicators. Cases languishing impact the agency's credibility, supervisor morale, and efficient execution of the agency's mission. OPM's own conclusions as well as the feedback from stakeholders weigh in favor of rescission.

Some commenters asserted that clean-record settlements are wasteful of taxpayer dollars while another commenter stated it was unlawful and an additional commenter posited that this provision should be withdrawn. Some management associations opined that the American taxpayer is entitled to an accurate recording of an employee's performance. One management association asserted that taxpayers should not suffer the results of employees committing the same offenses repeatedly across government while another management association stated that taxpayers should not endure the consequences of inadequate employee job performance or employees committing the same offenses time and again across government. Both management associations contended that ''flexibility should not be the code word for diminished accountability.''

One commenter posited that ''arbitrary'' rule changes cause undue hardship and waste taxpayer dollars by paying employees who need to be removed and are not. Similarly, another commenter stated that clean-record agreements ''perpetuate[] that sense of entitlement that some Federal employee[s] have, that the Federal Government somehow owes them''. This commenter asserted that this is offensive to the American taxpayer and unfair to Federal employees who adhere to the rules and do their job. The commenter requested that OPM withdraw the proposal to rescind the clean-record provisions. Finally, an individual stated that removal of the clean-record rule is unlawful.

OPM disagrees with the commenters. The purpose of the prohibition rescission is to remove a provision that hampers agencies' ability to resolve workplace disputes at an early stage and with minimal costs to the agency when appropriate. Rather than adverse consequences for taxpayers, the numerous benefits of clean-record settlements have been detailed by agencies and stakeholders as providing greater efficiency and effectiveness. These significant advantages include minimizing the burden of the substantial cost of litigation in relation to the issues at stake and achieving a result that benefits agencies and taxpayers. Further, this rule is not unlawful or arbitrary. E.O. 14003 requires that OPM rescind the prohibition, and OPM, pursuant to its authorities under 5 U.S.C. 2951 to maintain personnel records and under 5 U.S.C. 1103(a)(5) to execute, administer, and enforce the law governing the civil service, has decided to rescind §§ 432.108, 752.104, 752.203(h), 752.407, and 752.607. We believe this rule will have a positive impact on the Federal Government's ability to accomplish its mission for the American taxpayers.

Some commenters remarked that clean records prevent holding employees accountable for their performance and conduct. Among these commenters, a management association stated that we should all be striving to maintain high standards of integrity and accountability, not longevity and seniority at all costs. Another commenter expressed disagreement

with the proposed rule by stating that ''too many employees'' are not held accountable for issues that warrant discipline and ''it all just goes away.'' This commenter recommended, ''Do not change back to the way of hiding history of bad employees.'' Yet another individual related seeing clean records used as a tool to undermine the agency's decision to hold an employee accountable for their actions or lack thereof, basically rewarding an employee for their bad behavior or performance.

OPM agrees that all members of the Federal Government should strive to maintain high standards and accountability. However, we disagree that clean-record agreements are inconsistent with accountability. In adhering to the principles of high standards of integrity and accountability, each agency decision as to whether and how to settle a case should be based on valid considerations, such as litigation risk. Further, OPM notes that the statutory and regulatory frameworks for addressing poor performance and misconduct and rewarding satisfactory or better performance remain intact. Effective utilization of the available tools and flexibilities will permit agencies to address poor performance and misconduct when they arise, consistent with the policies of E.O. 14003.

Some management associations asserted that the proposed rescission overvalues the agencies' ''ability to resolve informal and formal complaints at an early stage and with minimal costs to the agency,'' while undervaluing the process provided by the merit system.

OPM disagrees with these comments. Decisions to resolve informal and formal complaints at an early stage are at the discretion of the agency's authority. Thus, returning this firmly established discretion to agencies for resolving informal and formal complaints gives the proper value to agencies' authority in this area without imposed restrictions. Further, granting agencies a degree of flexibility to resolve individual workplace disputes does not undervalue the merit system process. Clean-record agreements provide agencies with an important tool and flexibility, consistent with the policies of E.O. 14003.

Commenters expressed that clean-record agreements have a negative impact on hiring practices. A management association asserted that clean-record settlements are a favored way to help their constituents get re-hired. Other management associations asserted that OPM emphasizes ''flexibility'' to resolve disputes, but in reality the proposed changes in this rule enable agencies to pass problematic employees between one another. In fact, a commenter stated that clean records result in a ''vicious cycle'' whereby the employee is allowed to pursue employment at another agency, where their behavior/performance does not improve, and that agency bears the cost, time, and effort to hold the employee accountable. A management association added that failing to document a reason for removal leads directly to ''dangerous situations for Federal workers who serve honorably and places managers in impossible situations.''

OPM disagrees with these characterizations of rescinding this regulatory provision. We are simply rescinding a rigid regulation that, upon reflection and further consideration, we deem impracticable, unrealistic, and unhelpful because it absolutely prohibits agencies from altering or removing information about performance or misconduct as a condition to resolve or settle a complaint or challenge to a personnel action, even where doing so furthers the best interests of an effective and efficient Government and the interests, voluntarily expressed, of both parties to personnel litigation. OPM's rescission does not take a position on whether any particular case should be settled, and does not prohibit settlements, which through lessening a penalty or permitting resignation, may in certain circumstances lessen the risk of outright reversal with its high costs without benefit, or may otherwise adversely affect governmental interests.

Some management associations stressed the importance of maintaining accurate official personnel records and stated that they are ''extremely concerned by OPM's proposal to delete § 432.108, 752.104, 752.407, and 752.607''. They believe the proposed rule lacks the balance that existed in the regulations that were effective in November 2020 whereby OPM banned clean-record settlements but permitted an agency to correct errors, either unilaterally or pursuant to a settlement agreement, based on discovery of agency error or illegality. To further illustrate their views on the balance that currently exists, the management associations quoted OPM's November 2020 final rule, which stated that agencies are permitted to ''modify an employee's personnel file'' when persuasive evidence comes to light prior to the issuance of a final agency decision on adverse action ''casting doubt on the validity of the action or the ability of the agency to sustain the action in litigation''. These management associations assert that the record should reflect what is correct. Another commenter discussed seeing a large amount of destruction and altering of official personnel records, which the commenter described as ''fraudulent, unethical, and demoralizing to the workforce.'' This commenter asserted that there is no legitimate reason to alter an official record. The commenter believes that 5 CFR 432.108(a) correctly prohibits such dishonesty and should be left standing. Regarding correcting errors in records, the commenter offered that the proper approach is to add a statement to the existing record explaining why it is in error and updating it, thus maintaining the correct history of the record. The commenter asserted that this standard is ''the only way that ''agencies [c]ould still adhere to the principles of promoting high standards of integrity and accountability within the Federal workforce.'' The commenter stated that the corrective actions currently allowed in 5 CFR 432.108(b) and (c) are too open-ended and should be amended to require a correct historical record.

OPM will not make any changes based on these comments. Agencies are still permitted to correct errors based on discovery of error or illegality, but there are other considerations at play, including evolving, unforeseen litigation risks, among others. Nor is OPM asserting a general and all-encompassing position that settlement of disputes or its opposite is to be commended or favored. Each matter is to stand on its own footing. Still less is OPM suggesting that agencies should lightly change personnel records, and certainly not in a way that undermines Government integrity. Agencies are expected to exercise good judgment in determining whether and how to settle a case after due consideration of all relevant factors, including litigation risk.

We also disagree with the comment that there is ''no legitimate reason'' to alter an official record. Legitimate reasons include a cancellation or correction ordered by a third party or discovery of agency error, and such corrections do in fact promote integrity and ethical standards. Moreover, the purpose of paragraphs (b) and (c) that one commenter asks OPM to retain was to clarify for agencies that the prohibition on clean-record agreements did not preclude agencies from taking corrective action based on discovery of agency error or discovery of material information prior to final agency action. The removal of the prohibition on clean-record agreements means that the

clarifications for corrective action are no longer needed in parts 432 and 752. These clarifications are rooted in statutes, regulations, and policies that are still applicable to Federal agencies, including agencies' obligation to maintain accurate personnel records in accordance with the Privacy Act, 5 CFR part 293, and OPM's *Guide to Personnel Recordkeeping.* Agencies continue to have the authority to modify an employee's personnel file or other agency files to remove inaccurate information or the record of an erroneous or illegal action.

In further disagreement with the change in the clean-record agreement requirements, some management associations remarked, ''Even OPM's efficiency argument fails.'' They posited that OPM presented ''no data or evidence that agencies were impeded in their ability to adjudicate employee complaints and disputes'' and simply listened to recurring objections from agencies that were required to enforce the law and comply with procedures enacted by Congress and implemented through OPM regulation.

OPM disagrees with the commenters' characterization that OPM's rulemaking requires data or evidence that agencies were adversely impacted in their ability to resolve employee complaints and disputes. OPM acknowledged in the Expected Impact section of the proposed rule, that OPM has virtually no data on the extent to which adverse actions were pursued under the regulations proposed for rescission here. As discussed above, agencies ''are free to change their existing policies as long as they provide a reasoned explanation for the change.'' *See Encino Motorcars, LLC* v. *Navarro.* Among other factors, OPM considered both opposing and supporting perspectives raised by stakeholders during the notice-and-comment period.

For the reasons discussed above, OPM will rescind §§ 432.108, 752.104, 752.203(h), 752.407, and 752.607 in their entirety.

While some commenters voiced overall support for rescission of this requirement, they opposed the provision related to the obligation to speak truthfully to Federal investigators performing background investigations. One national union, two organizations, and one individual objected to OPM's statement in the January 2022 proposed rule that, ''In addition, agencies are advised that, in any such [clean-record] agreement, they have an obligation to speak truthfully to Federal investigators performing future background investigations with respect to the employee and may not agree to withhold information about the circumstances of an individual's departure from the agency.''

Though a national union expressed overall support for rescinding the prohibition on clean-record agreements, the union stated that the advice in question is vague and could give rise to potential breaches, particularly in settlements that contain ''no admission'' and confidentiality clauses. The union requested that OPM work with all Federal employee unions, and other stakeholders as appropriate, to develop a shared understanding of this section of the commentary and to advise agencies appropriately thereafter.

We disagree. OPM believes the language in question is clear and consistent with what agencies have always been required to do regarding the need to speak truthfully to Federal investigators performing background investigations with respect to an employee covered by a settlement agreement. On any matters involving employees or former employees covered by a settlement agreement, agency officials should always consult with agency legal counsel before responding to inquiries about these individuals to avoid violating enforceable settlement agreements.

One organization wrote that the statement concerning speaking truthfully to Federal investigators in the proposed rule is contrary to the President's policy in E.O. 14003 of rescinding restrictions on agencies' discretion to enter into clean-record settlements in disputed cases. The organization stated that its members have observed that agencies are often guilty of giving incomplete information to background investigators in a fashion skewed to denigrate targeted employees, selectively including information adverse to subject employees while materially omitting the employees' counterarguments (in particular, if the employee challenged agency actions against them as unlawful discrimination, unlawful EEO reprisal or whistleblower reprisal, etc.). The organization added that efficiency of the Federal service is not promoted by ''giving license to continuing retaliation through providing negatively skewed information to future employers; to the contrary, doing so represents further retaliatory action in violation of 5 U.S.C. 2302(b)(1, 8, 9, 10) and other statutes.'' The second organization concurred with this organization's comments.

OPM's reminder to agencies concerning the need to be truthful to Federal investigators is in connection with background investigations. Accordingly, agencies may not agree to withhold information about an individual's departure from the agency. The requirement for agencies to be truthful applies also to suitability determinations and other inquiries related to vetting for personnel security. This reminder does not give license to retaliate. In fact, the requirement to be truthful to background investigators necessarily includes that the agency makes full disclosure of information provided by the employee. Full disclosure is inherent in speaking truthfully.

A commenter wrote that it seems inconsistent to withhold agency discretion when it comes to divulging the particulars of clean-record separation agreements to future Federal employers. The commenter asserted that if the agency is mandated to ''adhere to the principles of promoting high standards of integrity and accountability within the Federal workforce,'' then it should be the agency's responsibility to balance that standard against the value of a conflict resolved. The commenter raised a concern that an investigator will likely be adversely influenced by the revelation of the particulars of a clean-record agreement. The individual characterized this as a form of ''backdoor'' retaliation that can have a ''chilling effect'' for employees. The commenter offered that a middle ground would be to permit agencies to include language that stipulates what will be divulged and what will not to any future Federal investigator. The commenter added that if this avenue is not widely used, it is a further negotiation point that will help parties reach resolution.

While a different commenter also stated support for the rescission of the clean-record prohibition, this individual suggested that the final rule should clearly allow clean-record agreements to stipulate what will be divulged and what will not be divulged to any future Federal investigator. The commenter offered an example: ''if a settlement agreement, legally approved by a federal judge, calls for permanent and irrevocable removal of a specific personnel action, that action should never be represented by either party as ever having legitimately occurred.'' The commenter added that ''clean'' should truly mean ''clean'' to preserve and avoid undermining the integrity of such agreements.

OPM will not adopt the suggestion that the final rule address any stipulation in clean-record agreements as to what will be divulged and what will not be divulged to any future Federal investigator. As stated earlier, agencies must provide truthful information about the circumstances of

an individual's departure from the agency during the course of investigations. These investigations include those conducted for the purpose of determining suitability or eligibility for sensitive national security positions. OPM will defer to agency officials, including agency counsel, with regard to negotiating the specific terms of settlement agreements necessary to enable the agency to fulfill any disclosure obligation based on the particular facts .

Additionally, if an agency wishes to maintain an agency policy that prohibits clean-record agreements, the agency is reminded that E.O. 14003 directs heads of affected agencies to, as soon as practicable, suspend, revise, or rescind actions arising from E.O. 13839. Given that E.O. 13839 was the sole reason for the clean-records prohibition and E.O. 13839 has been rescinded by E.O. 14003, it would be contrary to the spirit and intent of E.O. 14003 for an agency to broadly prohibit clean-record agreements. Instead, OPM strongly encourages each agency to make determinations about clean records on a case-by-case basis.

A Federal agency expressed concern that the proposed rescission of the settlement agreement provisions competes with the agency's ability to comply with 5 CFR part 731.101 regarding suitability determinations; Security Executive Agent Directive 4, which requires a risk assessment to make an informed national security determination; and Trusted Workforce 2.0 fundamentals such as improving policies, procedures, and automation to streamline and enhance the government's posture against national security risks. The agency requested that OPM address the interplay of these parts of the CFR, and the potential impact that this change may have on the ability of agencies to make fully informed decisions relative to risk. Additionally, one commenter disagreed with OPM's rescission of the settlement agreement provision. This commenter asserted that the November 2020 amendments were intended to promote the highest standards of integrity and accountability in the Federal workforce and were implemented to aid in records being preserved so that agencies can make appropriate and informed decisions regarding qualifications such as fitness and suitability for future employment.

OPM disagrees that the rescission of §§ 432.108, 752.104, 752.203(h), 752.407, and 752.607 will compete with an agency's ability to comply with 5 CFR 731.101, Security Executive Agent Directive 4, and Trusted Workforce 2.0 fundamentals as asserted by the agency. The agency did not provide an explanation or examples of how the clean-record prohibition impacted the agency's ability to make fully informed decisions relative to risk. Without additional information, it is difficult to address the agency's concern in more detail. Sections 432.108, 752.104, 752.203(h), 752.407 and 752.607 were in effect for less than two months at the time E.O. 14003 rescinded E.O. 13839. Consistent with the requirements that existed before and during the implementation of the clean-record prohibitions, when negotiating settlement agreement terms that involve disclosure of information about the employee, agency officials should consult with agency legal counsel.

In conclusion, OPM believes that the prohibition of clean-record agreements hampers agencies' ability to resolve informal and formal complaints at an early stage and with minimal costs to the agency. The removal of the prohibition on clean-record agreements will allow agencies discretion to resolve informal and formal complaints and settle administrative challenges in a manner that balances the needs of the agency and fairness to the employee. In doing so, agencies should still adhere to the principles of promoting high standards of integrity and accountability within the Federal workforce.

5 CFR Part 752—Adverse Actions

Subpart A—Discipline of Supervisors Based on Retaliation Against Whistleblowers

This subpart addresses mandatory procedures for addressing retaliation by supervisors for whistleblowing.

An organization emphasized its support of the requirements for whistleblower protection. This organization elaborated on its longstanding advocacy in favor of ''robust protection for whistleblowers, which necessarily includes disciplinary consequences for those federal managers who abuse their authority to retaliate against whistleblowers in defiance of federal law.'' The organization expressed that thus it supported the policy behind 5 U.S.C. 7515 and 5 CFR part 752, subpart A, and encouraged OPM to continue in its enforcement. A second organization concurred with this commenter.

Section 752.101 Coverage

This section describes the adverse actions covered and defines key terms used throughout the subchapter. Section 752.101 includes a definition for the term ''business day.'' Given the revocation of E.O. 13839 and under its congressionally granted authority to regulate part 752, OPM rescinds § 752.101, and given that there is no other use for the definition of ''business day'' in subpart A, in this rule OPM revises the regulation at § 752.101(b) to remove the definition of ''Business day''.

We received no comments on this section.

Section 752.103 Procedures

This section establishes the procedures to be utilized for actions taken under this subpart. With the rescission of E.O. 13839 and under its congressionally granted authority to regulate chapter 75 adverse actions, OPM rescinds the requirement at § 752.103(d)(3) that, to the extent practicable, an agency should issue the decision on a proposed removal under this subpart within 15 business days of the conclusion of the employee's opportunity to respond under paragraph (d)(1) of this section. All comments related to the rescission of the requirement that an agency issue the decision on a proposed removal within 15 business days of the conclusion of the employee's opportunity to respond are addressed here in the Supplementary Information for the change at § 752.103, where the change appears first.

Some commenters including national unions voiced support regarding the removal of the requirement that an agency must issue the decision on a proposed removal within 15 days of the conclusion of the employee's opportunity to respond. Two national unions commented that the elimination of the 15-day requirement to issue a decision on a proposal was warranted and that the deadline imposed by the November 2020 amendment was arbitrary. In fact, a national union commented that the requirement to issue a decision on a proposal within 15 business days ''is an arbitrary and unnecessarily short time frame and that it might not allow thoughtful well-reasoned disciplinary decisions.'' Further, another national union stated that there was no statutory antecedent for this requirement and this mandate was counterproductive because it forced agencies to rush in issuing decisions ''which in turn weakened the agency's action upon review.'' This national union commented that agencies must engage in reasoned decision making and that a ''decision reached merely to comply with an arbitrary deadline is itself arbitrary and capricious and subject to reversal.'' Additionally, this national union observed that every proposed adverse action is different and

some proposed adverse actions require more time than others for full consideration of the employee's response and the underlying facts. In further support of this rescission, the national union commented by providing agencies added flexibility the proposed change will ''lead to the more efficient and effective resolution of employment disputes.''

Two organizations, one concurring with the other's comment submissions, objected to the 15-day restriction on decisional periods for adverse actions and pronounced that these restrictions resulted in inferior rushed disciplinary decisions on incomplete information by agencies. Moreover, these organizations remarked that E.O. 14003 and OPM's rule ''restor[ed] agencies' reasonable discretion'' and ''bring[s] to a close a misguided policy.''

While some commenters voiced support, other commenters disagreed with this change to the regulations. Two management associations erroneously stated that OPM only made a change regarding the 15-day requirement to issue the decision on a proposed removal in ''a very narrow section of Part 752 focused on whistleblower retaliation.'' These commenters also remarked that establishing dissimilar, seemingly arbitrary timelines across government appears ''contrary to the policy of the United States government, per E.O. 14003.'' The organizations commented that the proposed rule does not change the 15-day requirement in other portions of the rule. In response to this incorrect assertion, we note that OPM proposed to rescind the 15-day requirement to issue a decision on a proposal at §§ 752.404(g)(3) and 752.604(g)(3), not only at § 752.103(d)(3).

These management associations also raised concerns that removing the 15-day requirement ''without offering any guidance on a minimum or maximum acceptable timeline . . . agencies may continue practices that include abuse of administrative leave and failing to make timely decisions.'' Further, these commenters said that lacking OPM guidance, including the final regulations for the Administrative Leave Act of 2016, agencies will be enabled in such practices. The management associations remarked that taxpayers rather than employees are ''ultimately paying for the delayed decision.''

We disagree with these comments. Regarding the commenters' objection that no OPM guidance is provided to agencies as to when a decision must be issued, as we stated in the proposed rule, it is good practice for agency deciding officials to resolve proposed removals promptly. However, some actions present complications that warrant a longer period of time to achieve careful crafting of the final decision. In executing due diligence concerning the employee's performance or alleged misconduct, agencies have an opportunity to obtain all of the available relevant information to make an informed and defensible decision. This latitude allows agencies to continue fact-finding in a deliberate fashion and avoids a rush to judgment. It is not in the Government's best interests to force decisions to be completed on an arbitrary timetable that may not allow for the deciding official to prepare a thoughtful, well-reasoned decision document as this may lead to prolonged litigation resulting in unnecessary cost to the taxpayer. Further, with respect to the commenters' concern regarding agencies' use of administrative leave and failing to make timely decisions, we note that while administrative leave may be appropriate under various circumstances, administrative leave is an option that should be used sparingly. We provide several alternatives for an agency to use during the advance notice period, depending on the facts and circumstances of the situation. OPM regulations at § 752.404(b)(3)(i) through (iv) explain that ''[u]nder ordinary circumstances, an employee whose removal or suspension, including indefinite suspension, has been proposed will remain in a duty status in his or her regular position''. In the rare circumstances where the employee's continued presence in the workplace during the notice period may present ''a threat to the employee or others'' or involve other extenuating circumstances as outlined in the regulation, the agency may choose one or a combination of options: assigning the employee to other duties, granting leave or otherwise carrying the individual in an appropriate leave status, shortening the notice period when an agency invokes the ''crime provision'', and, finally, placing the employee in a paid nonduty status for such time as is necessary to effect the action. Until OPM has published the final regulation for 5 U.S.C. 6329b and after the conclusion of the agency implementation period, these provisions may be used. After publication of 5 U.S.C. 6329b, and the subsequent agency implementation period, an agency may place the employee in a notice leave status when applicable.

Section 752.104 Settlement Agreements

The language in this section establishes the same requirements that are detailed in §§ 432.108, 752.203, 752.407, and 752.607, Settlement agreements. This final rule removes § 752.104, Settlement agreements. Please see the discussion in § 432.108 regarding the rescission of OPM requirements related to settlement agreements.

Subpart B—Regulatory Requirements for Suspensions for 14 Days or Less

This subpart addresses the procedural requirements for suspensions of 14 days or less for covered employees.

Section 752.202 Standard for Action and Penalty Determination

Consistent with the rescission of E.O. 13839 and under its congressionally granted authority to regulate part 752, OPM amends this section to revise the section heading to ''Standard for action'' and rescinds paragraphs (c) through (f). These paragraphs address the use of progressive discipline; appropriate comparators as the agency evaluates a potential disciplinary action; consideration of, among other factors, an employee's disciplinary record and past work record; and the requirement that a suspension should not be a substitute for removal in circumstances in which removal would be appropriate.

All comments related to the rescission of the requirement for the use of progressive discipline; appropriate comparators as the agency evaluates a potential disciplinary action; consideration of, among other factors, an employee's disciplinary record and past work record; and the requirement that a suspension should not be a substitute for removal in circumstances in which removal would be appropriate are addressed here in the Supplementary Information for the change at § 752.202 where the change appears first.

Several commenters, including national unions, voiced support for rescission of this section in its entirety, and additional commenters endorsed removal of various portions. In fact, one national union declared that ''OPM is correct to remove these provisions as they existed solely to encourage agencies to remove employees from federal service, which is not a purpose expressed or countenanced by the controlling statutes.''

This final rule removes from regulation the provision regarding the use of progressive discipline. Describing the November 2020 regulations as ''ill-advised provisions discouraging the use of progressive discipline,'' a national union commended the removal of this regulatory language and lauded progressive discipline as a ''well-

established and equitable way to ensure employees are treated fairly.''

In non-support of the rescission, a management association articulated that in their view the November 2020 amendments provided advantages for management. One member of the association declared this section as the best part of the former rule. The management association went on to state that ''eliminating the 'requirement' for progressive discipline and codifying that elimination was a huge management benefit.'' The association further noted that the amendments of November 2020 also formalized the requirement for a penalty to be '''within the bounds of tolerable reasonableness,' instead of a cookie-cutter progression.'' The management association noted that there has never been a legal requirement for progressive discipline or rehabilitation and viewed progressive discipline as something that ''has grown within most agencies to the point of being a roadblock in many instances to removals or suspensions that would promote the efficiency of the service because there was no prior discipline. They also commented that ''[f]ar too many union contracts require management to utilize progressive discipline, which eliminates a key management flexibility when dealing with conduct/performance issues.'' Further, the management association asserted that ''[r]estricting an arbitrator's ability to mitigate reasonable penalties was good for management.'' The management association also viewed the November 2020 rules favorably because they ''took the penalty out of the bargaining arena'' and remarked that ''[i]t never belonged there in the first place as 5 U.S.C. 7106 (a)(2) reserved the right (authority) to discipline employees to management without bargaining.''

OPM will not make any modifications based on these comments. OPM disagrees with the management association's assessment that the requirement in regulation as to agencies' optional use of progressive discipline was beneficial to management and that the use of progressive discipline is a ''roadblock'' to suspensions and removals. As we have previously said each action stands on its own footing and demands careful consideration of facts, circumstances, context, and nuance. OPM reminds agencies to calibrate discipline to the unique facts and circumstances of each case, which is consistent with the flexibility afforded agencies under the ''efficiency of the service'' standard for imposing discipline contained in the CSRA. Proposing and deciding officials should consult with the agency counsel and the agency's human resources office to determine the most appropriate penalty. In regard to the commenter's statement that there is no requirement in law for progressive discipline and progressive discipline provisions in union contracts eliminate a management flexibility, bargaining proposals involving penalty determinations such as mandatory use of progressive discipline impermissibly interfere with the exercise of a statutory management right to discipline employees, and are thus contrary to law.

Moreover, the final rule at § 752.202 rescinds the prior regulations' reliance on the test pronounced in *Miskill* v. *Social Security Administration,* 863 F.3d 1379 (Fed. Cir. 2017). A national union applauded OPM's rescission and described the provisions of OPM's November 2020 regulations as ''ill-advised provisions'' and ''as narrowly defining appropriate comparators''. This national union concurred with OPM removing this language and allowing agencies to be guided by court precedent on this issue.

However, some management associations disagreed with the rescission saying, ''The proposed changes result in guidance to agencies and supervisors that is far less clear and actionable.'' These commenters questioned whether human resources specialists clearly understand the *Miskill* test and would be able to apply it ''the same way as peers in other agencies.'' They protested that ''in the name of flexibility OPM simply continues its history of abdicating its own responsibility'' to provide guidance that is ''coherent and useful'' despite responsibility for providing government-wide guidance for a vast, robust statutory scheme with over 40 years of Congressional amendments and as many years of accompanying case law. One of these management associations emphasized that absent additional, specific OPM guidance the system is not clear at all and will continue to provoke confusion in the employing agencies. To illustrate their point of view, the management association stated they are seeking additional educational resources to help understand regulations, guidance, case law and other resources to understand the Civil Service. They asserted that ''OPM should not rely on associations like ours to fill in the vast knowledge gaps that it and agencies are leaving.''

OPM will not make any revisions based on these comments. The adoption of the *Miskill* test reinforced the key principle that each case stands on its own factual and contextual footing. Federal human resources specialists involved in advising management and agency counsel routinely apply case law with overwhelmingly successful outcomes for agencies. We do not believe the *Miskill* case is an exception to this consistent track record in support of efficient and effective disciplinary actions taken by agencies. OPM believes that agencies can be sufficiently guided by *Miskill* and other applicable case law without a regulatory amendment. Note that OPM provides guidance to agencies through its accountability toolkit, which includes some of the key practices and lessons learned as discussed in the GAO report. OPM frequently communicates these strategies and approaches to the Federal community through the OPM website and ongoing outreach to agencies.

Furthermore, the final rule removes from regulation the standard applied by the MSPB in *Douglas* v. *Veterans Administration,* 5 M.S.P.R. 280 (1981). This rule specifically rescinds the requirement that among other factors, agencies should consider an employee's disciplinary record and past work record, including all applicable prior misconduct, when taking an action under this subpart.

Two organizations, one concurring with the other's comment submission, declared that although they previously had supported placing the *Douglas* factor analysis in OPM regulations, these organizations understood the necessity to comply with E.O. 14003 to rescind this provision. They applauded OPM's recognition of the importance of the *Douglas* standard and expressed the hope that OPM will consider future rulemaking activity to re-include the *Douglas* factor analysis in its regulations when the occasion permits. OPM will not commit to or rule out any specific future rulemaking activity at this time.

In another rescission to the final rule at § 752.202, OPM rescinds the requirement that a suspension may not be a substitute for removal. In support of this rescission, a national union commented that the November 2020 amendments to OPM's regulations ''contain ill-advised provisions'' and commended the rescission of those requirements which ''promot[ed] removals over suspensions.'' In its endorsement of OPM's rescission of this provision, the national union asserted that supervisors should exercise their judgment regarding appropriate penalties after their consideration of all of the pertinent factors and should not be compelled to impose removals over other disciplinary alternatives.

Another national union supported this rescission in §§ 752.202 and 752.403 with comments which were

identical to each other and are addressed here. This national union expounded that ''disproportionate and unreasonable penalties do not promote the efficiency of the service. The primary purpose of disciplinary actions is to correct misconduct—not to serve as a punishment.'' Additionally, the national union posited that removal should be limited for ''egregious misconduct'' or when it is evident that rehabilitation cannot be achieved. The national union opined that each removal results in lost time, effort, and funds invested in training that employee and loss of institutional knowledge, which may be irreplaceable. In further comment, this national union stated, ''It is remarkably inefficient for an agency to remove an employee regardless of the offense.'' Also with respect to penalties, the national union said that agencies are ''best served'' by taking action with the minimum penalty necessary to correct the misconduct which improves employee morale and minimizes the disruption to the agency. This national union affirmed, ''OPM's proposed changes are consistent with the CSRA and will better protect the due process rights of federal employees.''

While some commenters agreed with the rescission concerning the requirement that a suspension should not be a substitute for removal, a management association disagreed with this change. This management association questioned, ''Why keep an unacceptable employee?'' and observed that if the issue is conduct, ''a new position isn't going to 'fix' the underlying problem.'' This commenter stated that it understood that ''the rescission of E.O. 13839 led to rescinding this section.''

OPM will not make any changes based on this comment. If agencies implement a penalty other than removal, when it is appropriate, it does not follow that the employee is reassigned to a new position. The concept that suspension should not be a substitute for removal in circumstances in which removal would be appropriate is a straightforward principle that OPM believes agencies can apply without regulation. If a penalty is disproportionate to the alleged violation or is unreasonable, it is subject to being reduced or reversed even when the charges are sustained. Although OPM has decided to remove the provision regarding a suspension should not be a substitute for removal and defer to agency management in selecting an appropriate penalty, OPM reiterates that imposing a suspension when removal is appropriate may adversely impact employee morale and productivity and hamper the agency's ability to achieve its mission and promote effective stewardship. OPM reminds agencies that supervisors are responsible for ensuring that a disciplinary penalty is fair, reasonable, and appropriate to the facts and circumstances. In doing so, supervisors will address misconduct in a manner that has the greatest potential to avert harm to the efficiency of the service.

Section 752.203 Procedures

This section discusses the requirements for a proposal notice issued under this subpart. The language in this section establishes the same requirements for settlement agreements in the final rule that are detailed in §§ 432.108, 752.104, 752.407, and 752.607. Given the revocation of E.O. 13839 and under OPM's congressionally granted authority to regulate part 752, this final rule removes the requirement set forth in § 752.203(h). Please see the discussion in § 432.108 regarding the rescission of OPM requirements related to settlement agreements.

Subpart D—Regulatory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

This subpart addresses the procedural requirements for removals, suspensions for more than 14 days, including indefinite suspensions, reductions in grade, reductions in pay, and furloughs of 30 days or less for covered employees.

Section 752.401 Coverage

This section discusses adverse actions and employees covered under this subpart. The National Defense Authorization Act (NDAA) for Fiscal Year 2017 added MSPB appeal rights for National Guard technicians for certain adverse actions taken against them when they are not in a military pay status or when the issue does not involve fitness for duty in the reserve component.

In § 752.401(b), the final rule adds an exclusion for an action taken against a technician in the National Guard as provided in section 709(f)(4) of title 32, United States Code, and in § 752.401(d) removes from the list of employees excluded from coverage of this subpart ''a technician in the National Guard described in section 8337(h)(1) of title 5, United States Code, who is employed under section 709(a) of title 32, United States Code.''

An organization supported the extension of civil service protections to National Guard technicians under Public Law 114–328, and stated that, accordingly, the organization supported OPM's inclusion of an implementing regulation for that statute in this proposed rule. Another organization concurred with this organization's comments.

Section 752.402 Definitions

This section defines key terms used throughout the subchapter. With the rescission of E.O. 13839 and given that there is no other use for the definition of ''business day'' in subpart D, the final rule revises the regulation at § 752.402 to remove the definition of ''Business day''.

We did not receive any comments for this section.

Section 752.403 Standard for Action and Penalty Determination

Given the rescission of E.O. 13839 and under OPM's congressionally granted authority to regulate part 752, as with the final rule changes for § 752.202, the final regulatory changes to this section revise the heading to ''Standard for action'' and, as with §§ 752.202(c), 752.202(d), 752.202(e), and 752.202(f), rescind §§ 752.403(c), 752.403(d), 752.403(e), and 752.403(f). Please see the discussion in § 752.202.

Section 752.404 Procedures

Section 752.404(b) discusses the requirements for a notice of proposed action issued under this subpart. In particular, under OPM's authority to regulate 5 CFR part 752, the final rule rescinds the requirements in § 752.404(b)(1) that, to the extent an agency in its sole and exclusive discretion deems practicable, agencies should limit written notice of adverse actions taken under this subpart to the 30 days prescribed in 5 U.S.C. 7513(b)(1), as well as the requirement that any notice period greater than 30 days must be reported to OPM. All comments related to the rescission of the requirement that an agency limit written notice of adverse actions to 30 days, as well as the reporting requirement to OPM, are addressed here in the Supplementary Information for the change at § 752.404, where the change appears first.

Two organizations, one concurring with the other's comment submissions, endorsed the rescission of this regulatory requirement. The organizations asserted that the restrictions on response periods for adverse actions had an adverse impact on an employee's ability to respond appropriately and impaired their ''due process rights,'' as well as resulted in substandard and hurried decisions based on incomplete information.

Two national unions expressed their overall support for rescinding the requirements to issue a decision within 30 days of the end of the employee's response period. One union further commented that this language wrongly took a negotiable topic, notice periods, off the bargaining table and the reporting requirement would chill agencies from providing notice beyond 30 days. Another national union agreed with OPM's assessment that there are many legitimate reasons to provide a longer notice period. They commented that the reporting requirement was also ''inefficient, inasmuch as it placed an additional and unnecessary burden on OPM and on agencies seeking to take an adverse action.''

Additionally, this section discusses the requirements for an agency decision issued under § 752.404(g). Under OPM's authority to regulate 5 CFR part 752, the final rule rescinds the requirement at § 752.404(g)(3) that, to the extent practicable, an agency should issue the decision on a proposed removal under this subpart within 15 business days of the conclusion of the employee's opportunity to respond. All comments related to the rescission of the § 752.404(g)(3) requirement for agencies to issue decisions, to the extent practicable, within 15 business days of the conclusion of the employee's opportunity to respond under this subpart are addressed in the Supplementary Information for the change at § 752.103, where the change appears first.

Section 752.407 Settlement Agreements

The language in this section establishes the same requirement that is detailed in the final rule changes at §§ 432.108, 752.104, 752.203, and 752.607, Settlement agreements. This final rule removes § 752.407, Settlement agreements. Please see the discussion regarding settlement agreements in § 432.108 above.

Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

This subpart addresses the procedural requirements for suspensions for more than 14 days and removals from the civil service as set forth in 5 U.S.C. 7542.

Section 752.602 Definitions

This section defines key terms used throughout the subchapter. Section 752.602 includes a definition for the term ''business day.'' With the rescission of E.O. 13839 and given that there is no other use for ''business day'' in subpart F, OPM revises the regulation at § 752.602 to remove the definition of ''Business day''.

We did not receive any comments for this section.

Section 752.603 Standard for Action and Penalty Determination

Given the rescission of E.O. 13839 and under its congressionally granted authority to regulate part 752, as with the final rule changes for §§ 752.202 and 752.403, the final regulatory change to § 752.603 revises the heading to ''Standard for action'' and as with §§ 752.202(c), 752.202(d), 752.202(e), 752.202(f), 752.403(c), 752.403(d), 752.403(e), and 752.403(f), OPM rescinds §§ 752.603(c), 752.603(d), 752.603(e), and 752.603(f). Please see the discussion in § 752.202.

Section 752.604 Procedures

This section discusses requirements for a notice of proposed action. Due to the revocation of E.O. 13839 and under its congressionally granted authority to regulate 5 CFR part 752, as with the rule changes made for §§ 752.103(d)(3) and 752.404(b)(1), and for the same reasons, OPM rescinds the language at § 752.604(b)(1) that requires, to the extent an agency in its sole and exclusive discretion deems practicable, that agencies should limit a written notice of an adverse action to the 30 days prescribed in section 7543(b)(1) of title 5, United States Code. As well, in this rule OPM removes the language in § 752.604(b)(1) that requires that advance notices of greater than 30 days must be reported to OPM.

Additionally, OPM rescinds § 752.604(g)(3), which requires that an agency issue the decision on a proposed removal, to the extent practicable, within 15 business days of the conclusion of the employee's opportunity to respond. As with the discussion concerning the 15-day requirement for issuance of decisions in §§ 752.103(d)(3) and 752.404(g)(3), while recognizing it is good practice for agency deciding officials to resolve proposed removals promptly, some actions present complexities that necessitate a longer period of time to prepare the final decision. All comments related to the procedural requirements are addressed in the Supplementary Information for the changes at §§ 752.103 and 752.404, where the changes appear first.

Section 752.607 Settlement Agreements

The language in this section establishes the same requirements that are detailed in §§ 432.108, 752.104, 752.203 and 752.407, Settlement agreements. This final rule removes § 752.607, Settlement agreements. Please see the discussion at § 432.108.

Expected Impact of This Rule

OPM is issuing this final rule to implement requirements of E.O. 14003 and new statutory requirements for procedural and appeal rights for dual status National Guard technicians for certain adverse actions. E.O. 14003 requires OPM to rescind portions of the OPM final rule published at 85 FR 65940 which implemented certain requirements of E.O. 13839. In addition, section 512(a)(1)(C) of the 2017 NDAA provides MSPB appeal rights under 5 U.S.C. 7511, 7512, and 7513 to dual status National Guard technicians for certain adverse actions.

OPM believes that portions of the final rule which became effective on November 16, 2020, and which implemented certain requirements of E.O. 13839, are inconsistent with the current policy of the United States to protect, empower and rebuild the career Federal workforce as well as its current policy to encourage employee organizing and collective bargaining. The revisions implement applicable statutory mandates and provide agencies the necessary tools and flexibility to address matters related to unacceptable performance and misconduct or other behavior contrary to the efficiency of the service by Federal employees when they arise, consistent with the policies of E.O. 14003.

Given that the November 16, 2020, regulations OPM rescinds in this rule were in effect only for a brief period before E.O. 14003 was issued on January 22, 2021, agencies had limited opportunity to implement changes under the regulations. With the issuance of E.O. 14003, OPM discontinued collecting agency data on performance-based actions, adverse actions, and settlement agreements as was required by Section 5 of E.O. 13839. OPM does not otherwise collect agency data about the matters covered by the November 2020 regulatory amendments that OPM rescinds in this rule (namely, the timing and frequency of probationary period expiration notifications; the timing and nature of performance assistance for employees who have demonstrated unacceptable performance; penalty determination guidelines; advance notice and decision notice timeframes for adverse action; and settlement agreements). For these reasons, OPM has virtually no data on the extent to which adverse actions were pursued under the regulations for rescission

here. This rule will relieve agencies of the administrative burden of implementing the November 2020 regulatory amendments to the extent that agencies did not already have such policies and practices in place. Out of an abundance of caution, we clarify that OPM still is requiring that agencies submit to it arbitration awards taken under 5 U.S.C. 4303 or 5 U.S.C. 7512 so that OPM can efficiently carry out its authority under 5 U.S.C. 7703(d) to seek judicial review of any arbitration award that the Director of OPM determines is erroneous and would have a substantial impact on civil service law, rule, or regulation affecting personnel management that will have a substantial impact on a civil service law, rule, regulation, or policy directive.

Costs

This final rule will affect the operations of over 80 Federal agencies—ranging from cabinet-level departments to small independent agencies. Regarding implementation of E.O. 14003 requirements, we estimate that this rule will require individuals employed by these agencies to revise and rescind policies and procedures to implement certain portions of the OPM final rule published at 85 FR 65940 to the extent agencies have not already done so. Section 3(e) of E.O. 14003 directs heads of agencies whose practices were covered by E.O. 13839 to review and identify existing agency actions related to or arising from E.O. 13839 and ''as soon as practicable, suspend, revise, or publish for notice and comment proposed rules suspending, revising, or rescinding, the actions identified in the review'' described in Section 3(e). On March 5, 2021, OPM issued ''Guidance for Implementation of Executive Order 14003—Protecting the Federal Workforce'' to heads of agencies. In this guidance, OPM advised that ''agencies should not delay in implementing the requirements of Section 3(e) of E.O. 14003 as it relates to any changes to agency policies made as a result of OPM's regulations.'' Therefore, some agencies may not need to make any updates to agency policies as a result of this revised OPM rule. For the purpose of this cost analysis, the assumed average salary rate of Federal employees performing this work will be the rate in 2022 for GS–14, step 5, from the Washington, DC, locality pay table ($143,064 annual locality rate and $68.55 hourly locality rate). We assume that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of $137.10 per hour.

In order to comply with the regulatory changes in this final rule, affected agencies will need to review the rule and update their policies and procedures. We estimate that, in the first year following publication of the final rule, this will require an average of 200 hours of work by employees with an average hourly cost of $137.10. This would result in estimated costs in that first year of implementation of about $27,420 per agency, and about $2,193,600 in total government-wide. We do not believe this final rule will substantially increase the ongoing administrative costs to agencies.

Regarding the portion of the rule regarding appeal rights under 5 U.S.C. 7511, 7512, and 7513 for dual status National Guard technicians for certain adverse actions, this only impacts the Army National Guard and Air National Guard for dual status National Guard technicians that are covered by policies of the National Guard Bureau. Since this portion of the final rule reflects statutory changes in the 2017 NDAA which have been effective for several years, these statutory requirements should already be applied by the National Guard notwithstanding any regulatory changes by OPM. However, for the purpose of this cost analysis, the assumed average salary rate of Federal employees performing this work at the National Guard Bureau will be the rate in 2022 for GS–14, step 5, from the Washington, DC, locality pay table ($143,064 annual locality rate and $68.55 hourly locality rate). We assume that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of $137.10 per hour. In order to comply with the regulatory changes in this rule, the affected agency will need to review the rule and update its policies and procedures. We estimate that, in the first year following publication of the final rule, this will require an average of 40 hours of work by employees with an average hourly cost of $137.10. This would result in estimated costs in that first year of implementation of about $5,484 for the impacted agency. We do not believe this rule will substantially increase the ongoing administrative costs to the National Guard.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget as a significant, but not economically significant rule.

Regulatory Flexibility Act

The Director of the Office of Personnel Management certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act or CRA) (5 U.S.C. 801 *et seq.*) requires rules to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this final rule before its effective date, as required by 5 U.S.C. 801. The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this final rule is not a major rule as defined by the CRA (5 U.S.C. 804). The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this final rule is not a major rule as defined by the CRA (5 U.S.C. 804).

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521)

This regulatory action is not expected to impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 5 CFR Parts 315, 432, and 752

Government employees.

Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

Accordingly, for the reasons stated in the preamble, OPM amends 5 CFR parts 315, 432, and 752 as follows:

PART 315—CAREER AND CAREER–CONDITIONAL EMPLOYMENT

■ 1. Revise the authority citation for part 315 to read as follows:

Authority: 5 U.S.C. 1302, 2301, 2302, 3301, and 3302; E.O. 10577, 19 FR 7521, 3 CFR, 1954–1958 Comp., p. 218, unless otherwise noted; and E.O. 13162, 65 FR 43211, 3 CFR, 2000 Comp., p. 283. Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 365. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 12034, 43 FR 1917, 3 CFR, 1978 Comp., p. 111. Sec. 315.606 also issued under E.O. 11219, 30 FR 6381, 3 CFR, 1964–1965 Comp., p. 303. Sec. 315.607 also issued under 22 U.S.C. 2506. Sec. 315.608 also issued under E.O. 12721, 55 FR 31349, 3 CFR, 1990 Comp., p. 293. Sec. 315.610 also issued under 5 U.S.C. 3304(c). Sec. 315.611 also issued under 5 U.S.C. 3304(f). Sec. 315.612 also issued under E.O. 13473, 73 FR 56703, 3 CFR, 2008 Comp., p. 241. Sec. 315.708 also issued under E.O. 13318, 68 FR 66317, 3 CFR, 2003 Comp., p. 265. Sec. 315.710 also issued under E.O. 12596, 52 FR 17537, 3 CFR, 1987 Comp., p. 229. Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 44 FR 1055, 3 CFR, 1978 Comp., p. 264.

Subpart H—Probation on Initial Appointment to a Competitive Position

■ 2. Amend § 315.803 by revising paragraph (a) to read as follows:

§ 315.803 Agency action during probationary period (general).

(a) The agency shall utilize the probationary period as fully as possible to determine the fitness of the employee and shall terminate his or her services during this period if the employee fails to demonstrate fully his or her qualifications for continued employment.

* * * * *

PART 432—PERFORMANCE BASED REDUCTION IN GRADE AND REMOVAL ACTIONS

■ 3. The authority for part 432 continues to read as follows:

Authority: 5 U.S.C. 4303, 4305.

■ 4. Amend § 432.102 by:
■ a. Revising paragraphs (b)(14) and (15);
■ b. Adding paragraph (b)(16);
■ c. Removing paragraph (f)(12); and
■ d. Redesignating paragraphs (f)(13) and (14) as paragraphs (f)(12) and (13).

The revisions and additions read as follows:

§ 432.102 Coverage.

* * * * *

(b) * * *

(14) A termination in accordance with terms specified as conditions of employment at the time the appointment was made;

(15) An involuntary retirement because of disability under part 831 of this chapter; and

(16) An action against a technician in the National Guard concerning any activity under 32 U.S.C. 709(f)(4), except as provided by 32 U.S.C. 709(f)(5).

* * * * *

■ 5. Revise § 432.104 to read as follows:

§ 432.104 Addressing unacceptable performance.

At any time during the performance appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical elements, the agency shall notify the employee of the critical element(s) for which performance is unacceptable and inform the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance in his or her position. The agency should also inform the employee that unless his or her performance in the critical element(s) improves to and is sustained at an acceptable level, the employee may be reduced in grade or removed. For each critical element in which the employee's performance is unacceptable, the agency shall afford the employee a reasonable opportunity to demonstrate acceptable performance, commensurate with the duties and responsibilities of the employee's position. As part of the employee's opportunity to demonstrate acceptable performance, the agency shall offer assistance to the employee in improving unacceptable performance.

■ 6. Amend § 432.105 by revising paragraphs (a)(1) and (a)(4)(i)(B)(*6*) to read as follows:

§ 432.105 Proposing and taking action based on unacceptable performance.

(a) * * *

(1) Once an employee has been afforded a reasonable opportunity to demonstrate acceptable performance pursuant to § 432.104, an agency may propose a reduction-in-grade or removal action if the employee's performance during or following the opportunity to demonstrate acceptable performance is unacceptable in one or more of the critical elements for which the employee was afforded an opportunity to demonstrate acceptable performance.

* * * * *

(4) * * *

(i) * * *

(B) * * *

(*6*) To comply with a stay ordered by a member of the Merit Systems Protection Board under 5 U.S.C. 1214(b)(1)(A) or (B).

* * * * *

§ 432.108 [Removed]

■ 7. Remove § 432.108.

PART 752—ADVERSE ACTIONS

■ 8. Revise the authority citation for part 752 to read as follows:

Authority: 5 U.S.C. 7504, 7514, and 7543, Pub. L. 115–91, 131 Stat. 1283, and Pub. L. 114–328, 130 Stat. 2000.

Subpart A—Discipline of Supervisors Based on Retaliation Against Whistleblowers

§ 752.101 [Amended]

■ 9. Amend § 752.101 in paragraph (b) by removing the definition for ''Business day''.

§ 752.103 [Amended]

■ 10. Amend § 752.103 by removing paragraph (d)(3).

§ 752.104 [Removed]

■ 11. Remove § 752.104.

Subpart B—Regulatory Requirements for Suspensions for 14 Days or Less

■ 12. Amend § 752.202 by:
■ a. Revising the section heading; and
■ b. Removing paragraphs (c) through (f).

The revision reads as follows:

§ 752.202 Standard for action.

* * * * *

§ 752.203 [Amended]

■ 13. Amend § 752.203 by removing paragraph (h).

Subpart D—Regulatory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

■ 14. Amend § 752.401 by:
■ a. Revising paragraphs (b)(15) and (16);
■ b. Adding paragraph (b)(17);
■ c. Removing paragraph (d)(5); and
■ d. Redesignating paragraphs (d)(6) through (13) as paragraphs (d)(5) through (12).

The revisions and additions read as follows:

§ 752.401 Coverage.

* * * * *

(b) * * *

(15) Reduction of an employee's rate of basic pay from a rate that is contrary to law or regulation, including a reduction necessary to comply with the amendments made by Public Law 108–411, regarding pay-setting under the General Schedule and Federal Wage System and regulations in this subchapter implementing those amendments;

(16) An action taken under 5 U.S.C. 7515.; or

(17) An action taken against a technician in the National Guard concerning any activity under 32 U.S.C. 709(f)(4), except as provided by 32 U.S.C. 709(f)(5).

* * * * *

§ 752.402 [Amended]

■ 15. Amend § 752.402 by removing the definition for ''Business day''.

■ 16. Amend § 752.403 by:
■ a. Revising the section heading; and
■ b. Removing paragraphs (c) through (f).

The revision reads as follows:

§ 752.403 Standard for action.

* * * * *

■ 17. Amend § 752.404 by:
■ a. Revising paragraph (b)(1); and
■ b. Removing paragraph (g)(3).

The revision reads as follows:

§ 752.404 Procedures.

* * * * *

(b) * * *

(1) An employee against whom an action is proposed is entitled to at least 30 days' advance written notice unless there is an exception pursuant to paragraph (d) of this section. The notice must state the specific reason(s) for the proposed action and inform the employee of his or her right to review the material which is relied on to support the reasons for action given in the notice. The notice must further include detailed information with respect to any right to appeal the action pursuant to section 1097(b)(2)(A) of Public Law 115–91, the forums in which the employee may file an appeal, and any limitations on the rights of the employee that would apply because of the forum in which the employee decides to file.

* * * * *

§ 752.407 [Removed]

■ 18. Remove § 752.407.

Subpart F—Regulatory Requirements for Taking Adverse Action Under the Senior Executive Service

■ 19. Amend § 752.602 by removing the definition for ''Business day''.

■ 20. Amend § 752.603 by:
■ a. Revising the section heading; and
■ b. Removing paragraphs (c) through (f).

The revision reads as follows:

§ 752.603 Standard for action.

* * * * *

■ 21. Amend § 752.604 by:
■ a. Revising paragraph (b)(1); and
■ b. Removing paragraph (g)(3).

The revision reads as follows:

§ 752.604 Procedures.

* * * * *

(b) * * *

(1) An appointee against whom an action is proposed is entitled to at least 30 days' advance written notice unless there is an exception pursuant to paragraph (d) of this section. The notice must state the specific reason(s) for the proposed action and inform the appointee of his or her right to review the material that is relied on to support the reasons for action given in the notice. The notice must further include detailed information with respect to any right to appeal the action pursuant to section 1097(b)(2)(A) of Public Law 115–91, the forums in which the employee may file an appeal, and any limitations on the rights of the employee that would apply because of the forum in which the employee decides to file.

* * * * *

§ 752.607 [Removed]

■ 22. Remove § 752.607.

[FR Doc. 2022–24309 Filed 11–9–22; 8:45 am]

BILLING CODE 6325–38–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0688; Project Identifier MCAI–2022–00409–T; Amendment 39–22206; AD 2022–21–07]

RIN 2120–AA64

Airworthiness Directives; Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Model 328–100 and –300 airplanes. This AD was prompted by a safety analysis that lithium batteries installed in the personal electronic devices (PED) are a potential risk of an in-flight fire in the flight deck stowage boxes. This AD requires installing a placard and stowing the fire gloves on the left-hand (LH) flap door of the flight deck step; and installing the placards on the LH and right-hand (RH) flight deck stowage boxes. This AD also requires revising the operator's existing airplane flight manual (AFM) to include emergency procedures, 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 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 15, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0688; 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 material incorporated by reference 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–2022–0688.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206 231 3228; email *Todd.Thompson@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 all Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Model 328–100 and –300 airplanes. The NPRM published in the **Federal Register** on June 21, 2022 (87 FR 36775). The NPRM was prompted by AD 2022–0050, dated March 22, 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 lithium batteries installed in the PED are a potential risk of an in-flight fire in the flight deck stowage boxes. EASA issued Continuing Airworthiness Review Item (CARI) 25–09, requesting type certificate holders to investigate the potential risk of in-flight fire of lithium batteries installed in PED. The investigation was conducted on the effect of a PED fire on a critical system component, and the development of smoke in the flight deck. Deutsche Aircraft GmbH Model 328–100 and –300 airplanes have the stowages for PED located in the proximity of oxygen lines, oxygen mask boxes, and other critical system components in the flight deck. The safety analysis was performed at all possible locations, and concluded that in case of a PED fire, the panels of the side console forward stowage may not be able to withstand the released heat, and the oxygen supply line can be damaged. This condition, if not corrected, could result in an oxygen fed fire in the flight deck, possibly resulting in an uncontrolled fire.

In the NPRM, the FAA proposed to require installing a placard and stowing the fire gloves on the LH flap door of the flight deck step; and installing the placards on the LH and RH flight deck stowage boxes. The NPRM also proposed to require revising the operator's existing AFM to include emergency procedures, as specified in EASA AD 2022–0050. 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–2022–0688.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

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, 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 2022–0050 specifies procedures for installing a ''FIRE GLOVES'' pictogram placard and stowing the fire gloves on the LH flap door of the flight deck step; and installing the ''NO PED STOWAGE'' placards on the LH and RH flight deck stowage boxes. EASA AD 2022–0050 also specifies revising the operator's existing AFM to include emergency procedures to address smoke including PED smoke removal.

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 affects 35 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
2 work-hours × $85 per hour = $170	$350	$520	$18,200

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:

2022–21–07 Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH): Amendment 39–22206; Docket No. FAA–2022–0688; Project Identifier MCAI–2022–00409–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Model 328–100 and 328–300 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 11, Placards and markings and 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a safety analysis that lithium batteries installed in personal electronic devices (PED) are a potential risk of an in-flight fire in the flight deck stowage boxes. The PED fire could spread out of the flight deck stowage boxes to the oxygen supply lines and other critical system components. The FAA is issuing this AD to address the potential risk of in-flight fire of lithium batteries installed in PED, which could result in an oxygen fed fire in the flight deck, possibly resulting in an uncontrolled fire.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0050, dated March 22, 2022 (EASA AD 2022–0050).

(h) Exceptions to EASA AD 2022–0050

(1) Where EASA AD 2022–0050 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (2) of EASA AD 2022–0050 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 (see 14 CFR 121.137, 91.505, and 91.9).

(3) Where paragraph (2) of EASA AD 2022–0050 specifies to amend or use the airplane flight manual (AFM), replace the text ''amend the applicable AFM by incorporating the AFM emergency procedure or use the AFM'' with ''amend the applicable AFM by incorporating the information specified in the AFM emergency procedure.''

(4) The ''Remarks'' section of EASA AD 2022–0050 does not apply to this AD.

(i) No Reporting Requirements

Although the service information referenced in EASA AD 2022–0050 specifies reporting, this AD does not include that requirement.

(j) 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 (k) 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 EASA; or Deutsche Aircraft GmbH's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Additional Information

For more information about this AD, contact Todd Thompson, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206 231 3228; email *Todd.Thompson@faa.gov.*

(l) 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 2022–0050, dated March 22, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0050, 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 October 3, 2022.

Christina Underwood,

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

[FR Doc. 2022–24514 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2020–C–1309]

Listing of Color Additives Exempt From Certification; Spirulina Extract

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the color additive regulations to provide for the expanded safe use of spirulina (*Arthrospira platensis*) extract

as a color additive in alcoholic beverages with less than 20 percent alcohol-by-volume content, non-alcoholic beverages, condiments and sauces, dips, dairy product alternatives (identified as non-dairy yogurt alternatives, non-dairy frozen desserts, and non-dairy puddings), salad dressings, and seasoning mixes (unheated). This action is in response to a color additive petition (CAP) filed by GNT USA, Inc. (GNT).

DATES: This rule is effective December 13, 2022. See section X for further information on the filing of objections. Either electronic or written objections and requests for a hearing on the final rule must be submitted by December 12, 2022.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 12, 2022. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic objections in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your objection, that information will be posted on *https://www.regulations.gov.*

• If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper objections submitted to the Dockets Management Staff, FDA will post your objection, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–C–1309 for ''Listing of Color Additives Exempt from Certification; Spirulina Extract.'' Received objections, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit an objection with confidential information that you do not wish to be made publicly available, submit your objections only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Stephanie A. Hice, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–255), 5001 Campus Dr., College Park, MD 20740, 301–348–1740; or Philip L. Chao, Center for Food Safety and Applied Nutrition, Office of Regulations and Policy (HFS–024), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a document published in the **Federal Register** of May 8, 2020 (85 FR 27340), we announced that we filed a color additive petition (CAP 0C0316) submitted on behalf of GNT by Hogan Lovells US LLP, 555 13th St. NW, Washington, DC 20004. The petition proposed to amend the color additive regulations in § 73.530 *Spirulina extract* (21 CFR 73.530) to provide for the expanded safe use of spirulina extract, prepared from the filtered aqueous extraction of the dried biomass of *A. platensis,* as a color additive in alcoholic beverages with less than 20 percent alcohol-by-volume content (the proposed scope was subsequently amended to include beer), non-alcoholic beverages, condiments and sauces, dips, dairy product alternatives (identified as non-dairy yogurt alternatives, non-dairy frozen desserts, and non-dairy puddings), salad dressings, and seasoning mixes (unheated) at levels consistent with good manufacturing practice (GMP).

II. Background

Spirulina extract is approved under § 73.530 for coloring confections (including candy and chewing gum), frostings, ice cream and frozen desserts, dessert coatings and toppings, beverage mixes and powders, yogurts, custards, puddings, cottage cheese, gelatin, breadcrumbs, ready-to-eat cereals (excluding extruded cereals), coating formulations applied to dietary supplement tablets and capsules, at levels consistent with GMP, and to seasonally color the shells of hard-boiled eggs, except that it may not be used to color foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 341), unless the use of the added color is authorized by such standards. Spirulina extract also is approved under 21 CFR 73.1530 for coloring coating formulations applied to drug tablets and capsules, at levels consistent with GMP.

Spirulina extract is exempt from certification under section 721(c) of the FD&C Act (21 U.S.C. 379e(c)) because we previously determined that certification was not necessary for the protection of public health (78 FR 49117 at 49119, August 13, 2013).

The spirulina extract that is the subject of this final rule is a blue-colored powder or liquid prepared by the water extraction and filtration of the dried biomass of *A. platensis* (also known as *Spirulina platensis*), an edible blue-green cyanobacterium. The extraction and filtration remove oil, oil soluble substances, and fibers. The color additive contains phycocyanins as the principal coloring components, and consists of proteins, carbohydrates, and minerals. Based on data and information provided in the petition on the identity, physical and chemical properties, manufacturing process, and composition of the color additive, we have determined that the color additive meets the specifications for spirulina extract in § 73.530 (Refs. 1 and 2).

Spirulina-based ingredients have been the subject of four generally recognized as safe (GRAS) notices (GRNs) filed by FDA (78 FR 49117 at 49118). Under section 201(s) of the FD&C Act (21 U.S.C. 321(s)), a substance is GRAS if it is generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food before January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use. Under section 201(s) of the FD&C Act, a substance that is GRAS for a particular use in food is not a food additive and may lawfully be utilized for that use without our review and approval. There is no GRAS exemption, however, to the definition of color additive in section 201(t) of the FD&C Act. Therefore, we must approve the intended use of a color additive in food before it is marketed; otherwise, the food containing the color additive is adulterated under section 402(c) of the FD&C Act (21 U.S.C. 342(c)). Importantly, in our response to these GRNs, we indicated that if the substance imparts color to the food, it may be subject to regulation as a color additive (78 FR 49117 at 49118).

III. Safety Evaluation

A. Determination of Safety

Under section 721(b)(4) of the FD&C Act, a color additive cannot be listed for a particular use unless the data and information available to FDA establish that the color additive is safe for that use. Our color additive regulations in 21 CFR 70.3(i) define ''safe'' to mean that there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive.

To establish with reasonable certainty that a color additive intended for use in food is not harmful under its intended conditions of use, we consider the projected human dietary exposure to the color additive, the additive's toxicological data, and other relevant information (such as published literature) available to us. We compare the estimated daily intake (EDI) of the color additive from all sources to an acceptable daily intake (ADI) level established by toxicological data. The EDI is calculated based on the amount of the color additive proposed for use in particular foods or drugs and on data regarding the amount consumed from all sources of the color additive. We commonly use the EDI for the 90th percentile consumer of a color additive as a measure of high chronic dietary exposure.

B. Safety of Petitioned Use of the Color Additive

During our safety review of this petition (CAP 0C0316), we considered the estimated dietary exposure to spirulina extract and c-phycocyanin (the main coloring component) from the petitioned uses of the subject color additive. GNT provided the eaters-only 90th percentile estimates of dietary exposure for spirulina extract and c-phycocyanin for the petitioned uses for the U.S. population aged 2 years and older, and various subpopulations. Upon further clarification of the proposed uses to include beer (Ref. 3), we amended GNT's dietary exposure estimate to include additional food codes for beer (Ref. 2). We estimated that the petitioned uses of the subject color additive would result in dietary exposures to spirulina extract and c-phycocyanins of 31 grams/person/day (g/p/d) and 0.6 g/p/d, respectively, at the 90th percentile for the U.S. population aged 2 years and older (Ref. 2). GNT cited a cumulative estimated daily intake (CEDI) to phycocyanins of 1.14 g/p/d (Ref. 2). This value has been cited in previous reviews of spirulina extract as an upper bound CEDI for phycocyanins from GRAS-notified uses of spirulina extract in food and is based on uses described in GRN 000424 (see 80 FR 50762 at 50763, August 21, 2015, and Ref. 4). GRN 000424 pertains to the use of a spirulina-based substance similar in chemical composition to the subject color additive but with a higher phycocyanin content and included use in all foods (except infant formula and foods under the U.S. Department of Agriculture's jurisdiction) at levels consistent with GMP (Refs. 2 and 4).

The highest 90th percentile estimate of dietary exposure to phycocyanins (0.7 g/p/d for adults 19 years or older) from the petitioned uses is below the upper-bound CEDI of 1.14 g/p/d phycocyanins from the notified GRAS uses described in GRN 000424 and from the uses approved under § 73.530 (Ref. 2). GNT indicated that, given the high phycocyanin content of the spirulina-based substance described in GRN 000424 (42 to 47 percent) relative to the subject color additive (2 percent) and the multiple uses of spirulina extract addressed previously in GRN 000424, the cited upper-bound CEDI encompasses current and previously petitioned uses of spirulina extract. Based on the data and information reviewed by FDA, the petitioned uses of spirulina extract are not expected to increase the estimated CEDI to phycocyanins in the U.S. diet (Ref. 2).

To support the safety of the petitioned uses of spirulina extract, GNT referenced the safety determinations made by FDA for CAPs 2C0293 (78 FR 49117), 2C0297 (79 FR 20095, April 11, 2014), 4C0300 (80 FR 50762), and 6C0306 (82 FR 30731, July 3, 2017). GNT also conducted an updated search of the peer-reviewed scientific literature on spirulina and submitted the published studies that they identified as being relevant to their petition. GNT concluded that these publications did not reveal any significant new toxicological effects and should not alter the conclusions of FDA's previous reviews on spirulina. Of the publications submitted by the petitioner, some studies had been previously reviewed by FDA. Our review of the new information, the information submitted in previously reviewed publications, as well as our own independent literature search and review of spirulina and phycocyanins, did not reveal any safety concerns relating to spirulina or phycocyanin, nor did it identify any information or data that would change the ADI of 1.0–1.8 g/p/d for phycocyanins (Refs. 5 and 6).

In our most recent evaluation of the use of spirulina extract as a color additive to seasonally color hard-boiled shell eggs (82 FR 30731), we did not have any concerns regarding the safety of the use of spirulina extract and its principal coloring components, phycocyanins. Considering all available safety information and the estimated dietary exposure to phycocyanins from

the petitioned uses, we conclude that the petitioned use of spirulina extract as a color additive is safe (Ref. 5).

We discussed the potential allergenicity of spirulina phycocyanins in our final rule for the use of spirulina extract as a color additive in candy and chewing gum (78 FR 49117 at 49119). We stated that, based on our review of a comparison of the known amino acid sequences of phycocyanins with the sequences of known protein allergens, there is a low probability that the spirulina phycocyanins are protein allergens. Therefore, we concluded that spirulina phycocyanins present an insignificant allergy risk to consumers of the color additive. Additionally, after a review of the literature relevant to the potential allergenicity of spirulina, we have determined that spirulina extract as a color additive for both current uses and the petitioned uses in food still presents an insignificant allergy risk for the general population (Ref. 6). We are not aware of any new information that would cause us to change this conclusion.

IV. Comment to the Petition and FDA Response

We received one comment on the petition. The comment asked us to clarify that we interpret ''malted beverages'' to apply to ''what is commonly known in the alcoholic beverage industry and amongst the general public as 'beer.''' GNT included a table of proposed uses in the petition. Under the alcoholic beverages category, GNT included ciders, cocktails and liqueur, ready-to-drink (*e.g.,* daiquiris, schnapps) with less than 20 percent alcohol-by-volume content, malt beverages, wine, and wine coolers. In the proposed amendment to § 73.530 *Spirulina extract,* GNT proposed that the intended uses include alcoholic beverages (with less than 20 percent alcohol-by-volume content, excluding beer).

As we noted in section I of this document, GNT subsequently expanded the scope of its petition to include beer. Therefore, we consider beer to be within the scope of the amended regulation as an alcoholic beverage with less than 20 percent alcohol-by-volume content.

V. Conclusion

Based on the data and information in the petition and other relevant material, we conclude that the petitioned use of spirulina extract as a color additive in alcoholic beverages with less than 20 percent alcohol-by-volume content, non-alcoholic beverages, condiments and sauces, dips, dairy product alternatives (identified as non-dairy yogurt alternatives, non-dairy frozen desserts, and non-dairy puddings), salad dressings, and seasoning mixes (unheated) is safe. We further conclude that the color additive will achieve its intended technical effect and is suitable for the petitioned use. Consequently, we are amending the color additive regulations in 21 CFR part 73 as set forth in this document. In addition, based upon the factors listed in 21 CFR 71.20(b), we continue to conclude that certification of spirulina extract is not necessary for the protection of public health.

VI. Public Disclosure

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, we will delete from the documents any materials that are not available for public disclosure.

VII. Analysis of Environmental Impact

We previously considered the environmental effects of this rule, as stated in the May 8, 2020, **Federal Register** notice of petition for CAP 0C0316 (85 FR 27340). We stated that we had determined, under 21 CFR 25.32(k), that this action ''is of a type that does not individually or cumulatively have a significant effect on the human environment'' such that neither an environmental assessment nor an environmental impact statement is required. We have not received any new information or comments that would affect our previous determination.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Section 301(ll) of the FD&C Act

Our review of this petition was limited to section 721 of the FD&C Act. This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, section 301(ll) of the FD&C Act (21 U.S.C. 331(ll)) prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exemptions in section 301(ll)(1) through (4) of the FD&C Act applies. In our review of this petition, we did not consider whether section 301(ll) of the FD&C Act or any of its exemptions apply to food containing this color additive. Accordingly, this final rule should not be construed to be a statement that a food containing this color additive, if introduced or delivered for introduction into interstate commerce, would not violate section 301(ll) of the FD&C Act. Furthermore, this language is included in all color additive final rules that pertain to food and therefore should not be construed to be a statement of the likelihood that section 301(ll) of the FD&C Act applies.

X. Objections

This rule is effective as shown in the **DATES** section, except as to any provisions that may be stayed by the filing of proper objections. If you will be adversely affected by one or more provisions of this regulation, you may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.* We will publish notice of the objections that we have received or lack thereof in the **Federal Register**.

XI. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through

Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Memorandum from N. Belai, Color Technology Branch, Division of Color Certification and Technology, Office of Cosmetics and Colors (OCAC), CFSAN, FDA to S. Hice, Regulatory Review Branch (RRB), Division of Food Ingredients (DFI), Office of Food Additive Safety (OFAS), CFSAN, FDA, September 30, 2022.
2. Memorandum from M. Swain, Chemistry Review Branch, DFI, OFAS, CFSAN, FDA to S. Hice, RRB, DFI, OFAS, CFSAN, FDA, October 7, 2022.
3. Memorandum of Telephone Conversation from S. Hice, RRB, DFI, OFAS, CFSAN, FDA, January 26, 2022.
4. Letter from D. Keefe, OFAS, CFSAN, FDA to H. Newman, Desert Lake Technologies, LLC, Agency Response Letter GRAS Notice 000424, December 6, 2012, (*https://wayback.archive-it.org/7993/20171031010129/https://www.fda.gov/Food/IngredientsPackagingLabeling/GRAS/NoticeInventory/ucm335743.htm*).
5. Memorandum from D. DeGroot, Toxicology Review Branch (TRB), DFI, OFAS, CFSAN, FDA to S. Hice, RRB, DFI, OFAS, CFSAN, FDA, October 8, 2022.
6. Memorandum from D. DeGroot, TRB, DFI, OFAS, CFSAN, FDA to S. Hice, RRB, DFI, OFAS, CFSAN, FDA, October 8, 2022.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of the Food and Drugs, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

■ 2. Section 73.530 is amended by revising paragraph (c) to read as follows:

§ 73.530 Spirulina extract.

* * * * *

(c) *Uses and restrictions.* Spirulina extract may be safely used for coloring confections (including candy and chewing gum), frostings, ice cream and frozen desserts (including non-dairy frozen dessert), dessert coatings and toppings, beverage mixes and powders, yogurts (including non-dairy yogurt alternatives), custards, puddings (including non-dairy puddings), cottage cheese, gelatin, breadcrumbs, ready-to-eat cereals (excluding extruded cereals), alcoholic beverages with less than 20 percent alcohol-by-volume content, non-alcoholic beverages, seasoning mixes (unheated), salad dressings, condiments and sauces, dips, coating formulations applied to dietary supplement tablets and capsules, at levels consistent with good manufacturing practice, and to seasonally color the shells of hard-boiled eggs, except that it may not be used to color foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act, unless the use of the added color is authorized by such standards.

* * * * *

Dated: November 3, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–24429 Filed 11–9–22; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2022–0528; FRL–10357–02–R3]

Air Plan Approval; West Virginia; 2021 Amendments to West Virginia's Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of West Virginia. The revision updates West Virginia's incorporation by reference of EPA's national ambient air quality standards (NAAQS) and the associated monitoring reference and equivalent methods. EPA is approving these revisions to the West Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on December 12, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2022–0528. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1617 John F Kennedy Blvd., Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at *Nichols.Serena@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 17, 2022 (87 FR 50593), EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, EPA proposed approval of a formal SIP revision submitted on May 11, 2021. The formal SIP revision updates West Virginia's incorporation by reference of the NAAQS promulgated by EPA and found at 40 Code of Federal Regulations (CFR) part 50 and ambient air monitoring reference methods and equivalent methods promulgated by EPA found at 40 CFR part 53 into West Virginia's legislative rules.

II. Summary of SIP Revision and EPA Analysis

West Virginia Department of Environmental Protection (WVDEP) has historically chosen to incorporate by reference the Federal NAAQS, found at 40 CFR part 50, and the associated Federal ambient air monitoring reference methods and equivalent methods for these NAAQS found at 40 CFR part 53. When incorporating by reference these Federal regulations, WVDEP has specified that it is incorporating by reference these regulations as they existed on a certain date. The incorporation by reference of the NAAQS that is currently approved in the West Virginia SIP incorporates by reference 40 CFR parts 50 and 53 as they existed on June 1, 2019. West Virginia's May 11, 2021 SIP revision updates the State's incorporation by reference of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods, found in 40 CFR parts 50 and 53, respectively, as of June 1, 2020. Since the last West Virginia

incorporation by reference of June 1, 2019, EPA: (1) designated one new equivalent method for measuring concentrations of ozone in ambient air; (2) designated one new reference method for measuring concentrations of nitrogen dioxide; (3) amended an existing reference method for measuring particulate matter (PM_{10}) in ambient air; (4) designated on new reference method for measuring concentrations of sulfur dioxide in ambient air; (5) designated one new equivalent method for measuring concentrations of nitrogen dioxide in ambient air. See 84 FR 44299 (August 23, 2019), 84 FR 50833 (September 26, 2019), 85 FR 5958 (February 2, 2020), 85 FR 27221 (May 7, 2020).

The amendments to the legislative rule include changes to section 45–8–1 (General), 45–8–2 (Definitions), and 45–8–3 (Adoption of Standards). The amendments update West Virginia's incorporation by reference of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods from June 1, 2019, to June 1, 2020. West Virginia is incorporating the Federal rules in 40 CFR parts 50 and 53 as they existed on June 1, 2020 into 45–8–1 and 45–8–3. The amendment to section 45–8–2 changes the wording of the definition of both the CAA and ''Secretary.''

No comments were received on the August 17, 2022 NPRM.

III. Final Action

EPA is approving the West Virginia SIP revision of May 11, 2021, updating the incorporation by reference of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of *45CSR8—Ambient Air Quality Standards,* as effective June 1, 2021, as discussed in Section II. of this preamble. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 9, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, approving the West Virginia SIP revision updating its incorporation by reference of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

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

requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (c) entitled ''EPA-Approved Regulations in the West Virginia SIP'' is amended by revising the entries for ''Section 45–8–1'', ''Section 45–8–2'', ''Section 45–8–3'', and ''Section 45–8–4'' under the heading ''[45 CSR] Series 8 Ambient Air Quality Standards'' to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 8 Ambient Air Quality Standards				
Section 45–8–1	General	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
Section 45–8–2	Definitions	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
Section 45–8–3	Adoption of Standards	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
Section 45–8–4	Inconsistency Between Rules	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
*	*	*	*	*

* * * * *

[FR Doc. 2022–24339 Filed 11–9–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2021–0016; FRL–8339–02–OAR]

RIN 2060–AV34

National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the technology review conducted for the paint stripping and miscellaneous surface coating operations area source categories regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments also address provisions regarding electronic reporting; make miscellaneous clarifying and technical corrections; simplify the petition for exemption process; and clarify requirements for emissions during periods of startup, shutdown, and malfunction (SSM). We are making no revisions to the numerical emission limits based on the technology review.

DATES: This final rule is effective on November 10, 2022. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 10, 2022.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0016. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Lisa Sutton, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3450; fax number: (919) 541–4991; and email address: *sutton.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ASHRAE American Society of Heating, Refrigerating, and Air-Conditioning Engineers
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations

EPA Environmental Protection Agency
FR Federal Register
GACT generally available control technology
HAP hazardous air pollutant(s)
HVLP high-volume, low-pressure
IBR incorporation by reference
km kilometer
MACT maximum achievable control technology
MeCl methylene chloride
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PDF portable document format
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
SSM startup, shutdown, and malfunction
the court United States Court of Appeals for the District of Columbia Circuit
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

Background information. On November 19, 2021, the EPA proposed revisions to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP based on our technology review (86 FR 66130). In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in *Summary of Public Comments and Responses for the Final Area Source Surface Coating and Paint Stripping Rule,* Docket ID No. EPA–HQ–OAR–2021–0016. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP, INDUSTRIAL, AND GOVERNMENT SOURCES AFFECTED BY THIS FINAL ACTION

NESHAP-regulated category	NAICS code	Regulated entities [a]
Aerospace Equipment	336413 336414 336415 54171	Aircraft engines, aircraft parts, aerospace ground equipment.
Automobiles and Automobile Parts	335312 336111 336211 336310 33632 33633 33634 33637 336390 441110 441120 811121	Engine parts, vehicle parts and accessories, brakes, axles, etc. Motor vehicle body manufacturing and automobile assembly plants. New and used car dealers. Automotive body, paint, and interior repair and maintenance.
Chemical Manufacturing and Product Preparation.	325110 325120 325130 325180 325192	Petrochemicals, Industrial Gases, Inorganic Dyes and Pigments, Basic Inorganic and Organic Chemicals, Cyclic Crude and Intermediates, Ethyl Alcohol, Miscellaneous Chemical Production and Preparation.

TABLE 1—NESHAP, INDUSTRIAL, AND GOVERNMENT SOURCES AFFECTED BY THIS FINAL ACTION—Continued

NESHAP-regulated category	NAICS code	Regulated entities [a]
	325193	
	325199	
	325998	
Extruded Aluminum	331318	Extruded aluminum, architectural components, coils, rod, and tubes.
	331524	
	332321	
	332323	
Government	Not Applicable	Government entities, besides Department of Defense, that maintain vehicles, such as school buses, police and emergency vehicles, transit buses, or highway maintenance vehicles.
Heavy Equipment	33312	Tractors, earth moving machinery.
	333611	
	333618	
Job Shops	332312	Manufacturing industries not elsewhere classified (e.g., bezels, consoles, panels, lenses).
	332722	
	332813	
	332991	
	332999	
	334118	
	336413	
	339999	
Large Trucks and Buses	33612	Large trucks and buses.
	336211	
Metal Buildings	332311	Prefabricated metal buildings, carports, docks, dwellings, greenhouses, panels for buildings.
Metal Containers	33242	Drums, kegs, pails, shipping containers.
	81131	
	322219	
	331513	
	332439	
Metal Pipe and Foundry	331110	Plate, tube, rods, nails, etc.
	331513	
	33121	
	331221	
	331511	
Rail Transportation	33651	Brakes, engines, freight cars, locomotives.
	482111	
Recreational Vehicles and Other Transportation Equipment.	321991	Mobile Homes. Motorcycles, motor homes, semi-trailers, truck trailers. Miscellaneous transportation related equipment and parts. Travel trailer and camper manufacturing.
	3369	
	331318	
	336991	
	336211	
	336112	
	336212	
	336213	
	336214	
	336390	
	336999	
	33635	
	56121	
	8111	
	56211	
Rubber-to- Metal Products	326291	Engine mounts, rubberized tank tread, harmonic balancers.
	326299	
Structural Steel	332311	Joists, railway bridge sections, highway bridge sections.
	332312	
Waste Treatment, Disposal, and Materials Recovery.	562211	Hazardous Waste Treatment and Disposal, Solid Waste Landfill, Solid Waste Combustors and Incinerators, Other Nonhazardous Waste Treatment and Disposal, Materials Recovery.
	562212	
	562213	
	562219	
	562920	
Other Industrial and Commercial	211130	Natural Gas Liquid Extraction.
	311942	Spices and Extracts.
	331313	Alumina Refining.
	337214	Office furniture, except wood. Reupholstery and Furniture Repair.
	811420	
	325211	Plastics Material Synthetic Resins, and Nonvulcanizable Elastomers.
	325510	Paint and Coating Manufacturing.
	32614, 32615	Plastic foam products (e.g., pool floats, wrestling mats, life jackets).

TABLE 1—NESHAP, INDUSTRIAL, AND GOVERNMENT SOURCES AFFECTED BY THIS FINAL ACTION—Continued

NESHAP-regulated category	NAICS code	Regulated entities [a]
	326199	Plastic products not elsewhere classified (e.g., name plates, coin holders, storage boxes, license plate housings, cosmetic caps, cup holders).
	333316	Office machines.
	33422	Radio and television broadcasting and communications equipment (e.g., cellular telephones).
	339112, 339113, 339114, 339115, 339116	Medical equipment and supplies.
	33992	Sporting and athletic goods.
	33995	Signs and advertising specialties.
	336611, 336612	Boat and ship building.
	713930	Marinas, including boat repair yards.

[a] Regulated entities means area source facilities that use methylene chloride (MeCl)-containing paint strippers to strip paint from, or that apply surface coatings to, these parts or products.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/paint-stripping-and-miscellaneous-surface-coating-operations.* Following publication in the **Federal Register,** the EPA will post the **Federal Register** version and key technical documents at this same website.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by January 9, 2023. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112(d)(6) requires the EPA to review standards promulgated under CAA section 112(d) and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years following promulgation of those standards. This is referred to as a ''technology review'' and is required for all standards established under CAA section 112(d), including generally available control technology (GACT) standards that apply to area sources. This action constitutes the CAA section 112(d)(6) technology review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP.

Several additional CAA sections are relevant to this action as they specifically address regulation of hazardous air pollutant emissions from area sources. Collectively, CAA sections 112(c)(3), (d)(5), and (k)(3) are the basis of the Area Source Program under the Urban Air Toxics Strategy, which provides the framework for regulation of area sources under CAA section 112.

Section 112(k)(3)(B) of the CAA required the EPA to identify at least 30 HAP that posed the greatest potential health threat in urban areas with a primary goal of achieving a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources. As discussed in the Integrated Urban Air Toxics Strategy (64 FR 38706, 38715, July 19, 1999), the EPA identified 30 HAP emitted from area sources that pose the greatest potential health threat in urban areas, and these HAP are commonly referred to as the ''30 urban HAP.''

Section 112(c)(3), in turn, required the EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP were subject to regulation. The EPA implemented these requirements through the Integrated Urban Air Toxics Strategy by identifying and setting standards for categories of area sources including the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories that are addressed in this action.

CAA section 112(d)(5) provides that, for area source categories, in lieu of setting maximum achievable control technology (MACT) standards (which are generally required for major source

categories), the EPA may elect to promulgate standards or requirements for area sources ''which provide for the use of generally available control technologies or management practices [GACT] by such sources to reduce emissions of hazardous air pollutants.'' In developing such standards, the EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for each area source category. Consistent with the legislative history, we can consider costs and economic impacts in determining what constitutes GACT.

GACT standards were set for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories in 2008. As noted earlier in this document, this final action presents the required CAA 112(d)(6) technology review for those source categories.

B. What are the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories and how does the NESHAP regulate HAP emissions from the source categories?

The EPA promulgated the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP on January 9, 2008 (73 FR 1738). The standards are codified at 40 CFR part 63, subpart HHHHHH. Technical corrections were promulgated on February 13, 2008 (73 FR 8408). The paint stripping and miscellaneous surface coating industry consists of facilities engaged in paint stripping using MeCl, and/or engaged in coating of miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic, or motor vehicle or mobile equipment refinishing. The NESHAP's title refers to a single set of emission standards that addresses three source categories: (1) Paint Stripping; (2) Miscellaneous Surface Coating; and (3) Motor Vehicle and Mobile Equipment Surface Coating. All facilities in this source category are area sources. The source categories covered by the GACT standards currently include approximately 40,000 facilities.

The NESHAP defines a ''coating'' as a material spray-applied to a substrate for decorative, protective, or functional purposes. For the purposes of this subpart, coating does not include the following materials: (1) decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances; (2) paper film or plastic film that may be pre-coated with an adhesive by the film manufacturer; (3) adhesives, sealants, maskants, or caulking materials; (4) temporary protective coatings, lubricants, or surface preparation materials; (5) in-mold coatings that are spray-applied in the manufacture of reinforced plastic composite parts. (40 CFR 63.11180.)

The NESHAP does not apply to paint stripping or surface coating operations that are specifically covered under another area source NESHAP and does not apply to paint stripping or surface coating operations that meet any of the following:

- Paint stripping or surface coating performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such state), the National Aeronautics and Space Administration, or the National Nuclear Security Administration.
- Paint stripping or surface coating of military munitions manufactured by or for the Armed Forces of the United States (including the Coast Guard and the National Guard of any such state) or equipment directly and exclusively used for the purposes of transporting military munitions.
- Paint stripping or surface coating performed by individuals on their personal vehicles, possessions, or property, either as a hobby or for maintenance of their personal vehicles, possessions, or property. The NESHAP also does not apply when these operations are performed by individuals for others without compensation. However, an individual who spray-applies surface coating to more than two motor vehicles or pieces of mobile equipment per year is subject to the requirements in this subpart that pertain to motor vehicle and mobile equipment surface coating regardless of whether compensation is received.
- Paint stripping or surface coating for research and laboratory activities, for quality control activities, or for activities that are covered under another area source NESHAP.

The primary HAP emitted from paint stripping operations is the MeCl contained in paint stripper formulations. The primary source of the MeCl emissions in the paint stripping source category comes from evaporative losses during the use and storage of MeCl-containing paint strippers.

All sources conducting paint stripping involving the use of MeCl must implement management practice standards that reduce emissions of MeCl by minimizing evaporative losses of MeCl. In addition to the management practices, sources that use more than one ton of MeCl per year must develop and implement a MeCl minimization plan consisting of a written plan with the criteria to evaluate the necessity of MeCl in the stripping operations and management techniques to minimize MeCl emissions when it is needed in the paint stripping operation.

The MeCl minimization plan evaluation criteria specify only using a MeCl-containing paint stripper when an alternative on-site stripping method or material is incapable of accomplishing the work as determined by the operator. Alternative methods to reduce MeCl usage may include: (1) non- or low-MeCl-containing chemical strippers; (2) mechanical stripping; (3) abrasive blasting (including dry or wet media); or (4) thermal and cryogenic decomposition.

The management practices required to be contained in the plan include optimizing stripper application conditions, reducing exposure of stripper to the air, and practicing proper storage and disposal of materials containing MeCl. Sources are required to submit the plan to the appropriate air authority, keep a written copy of the plan on site, and post a placard or sign outlining the evaluation criteria and management techniques in each area where MeCl-containing paint stripping operations occur. They are also required to review the plan annually and update it based on the experiences of the previous year or the availability of new methods of stripping, and to keep a record of the review and changes made to the plan on file. Sources must maintain copies of the specified records for a period of at least 5 years after the date of each record.

The primary HAP emitted from surface coating operations are compounds of cadmium, chromium, lead, manganese, and nickel from heavy metals contained in coatings. The target HAP compounds are emitted as the coatings are atomized during spray application. A substantial fraction of coating that is atomized does not reach the part and becomes what is termed ''overspray.'' The fraction that becomes overspray depends on many variables, but two of the most important are the type of spray equipment being used and the skill of the painter. Some overspray lands on surfaces of the spray booth and the masking paper that is usually placed around the surface being sprayed, but the rest of the overspray is drawn into the spray booth exhaust system. If the spray booth has filters, most of the overspray is captured by the filters; otherwise, it is exhausted to the atmosphere.

All motor vehicle and mobile equipment surface coating operations

and those miscellaneous surface coating operations that spray-apply coatings containing the target HAP must apply the coatings with a high-volume, low-pressure (HVLP) spray gun, electrostatic spray gun, airless spray gun, air-assisted airless spray gun, or a spray gun demonstrated to be equal in transfer efficiency to an HVLP spray gun. All spray-applied coatings must be applied in a prep station or spray booth. For motor vehicle and mobile equipment surface coating, prep stations and spray booths that are large enough to hold a complete vehicle must have four complete side walls or curtains and a complete roof. For motor vehicle and mobile equipment subassemblies and for miscellaneous surface coating, coatings must be spray-applied in a booth with a full roof and at least three walls or side curtains. Openings are allowed in the sidewalls and roof of booths used for miscellaneous surface coating to allow for parts conveyors, if needed. The exhaust from the prep station or spray booth must be fitted with filters demonstrated to achieve at least 98 percent capture efficiency of paint overspray.

Additionally, sources are required to demonstrate that (1) all painters that spray-apply coatings are certified as having completed operator training to improve coating transfer efficiency and minimize overspray and (2) no spray gun cleaning is performed by spraying solvent through the gun creating an atomized mist (*i.e.,* spray guns must be cleaned in an enclosed spray gun cleaner or by cleaning the disassembled gun parts by hand). Each painter must be certified as having completed classroom and hands-on training in the proper selection, mixing, and application of coatings, and must complete refresher training at least once every 5 years. The initial and refresher training must address the following topics:

- Spray gun equipment selection, set up, and operation, including measuring coating viscosity, selecting the proper fluid tip or nozzle, and achieving the proper spray pattern, air pressure and volume, and fluid delivery rate.
- Spray technique for different types of coatings to improve transfer efficiency and minimize coating usage and overspray, including maintaining the correct spray gun distance and angle to the part, using proper banding and overlap, and reducing lead and lag spraying at the beginning and end of each stroke.
- Routine spray booth and filter maintenance, including filter selection and installation.
- Environmental compliance with the requirements of this subpart.

Additional detail on the paint stripping and miscellaneous surface coating operations at area sources source categories and NESHAP requirements are provided in the proposal preamble (86 FR 66130, November 19, 2021).

C. What changes did we propose for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories in our November 19, 2021, technology review?

On November 19, 2021, the EPA published a proposed rule in the **Federal Register** for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, 40 CFR part 63, subpart HHHHHH, that took into consideration the technology review analyses. Based on our technology review, we did not identify any cost-effective developments in practices, processes, or control technologies for the three source categories addressed by the NESHAP. We proposed to amend electronic reporting provisions, simplify the petition for exemption process, clarify requirements addressing emissions during periods of SSM, and make miscellaneous clarifying and technical corrections.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the technology review provisions of CAA section 112 for the three source categories addressed by the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP. This action finalizes other changes to the NESHAP, by adding electronic reporting provisions, simplifying the petition for exemption process, clarifying requirements for addressing emissions during periods of SSM, and making miscellaneous clarifying and technical corrections.

A. What are the final rule amendments based on the technology review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the GACT standards for these source categories. Therefore, we are not amending any emission standards pursuant to our review under CAA section 112(d)(6). We are, however, amending other provisions of the NESHAP, to add requirements for electronic submission of reports, simplify the petition for exemption process, clarify requirements addressing SSM, and make miscellaneous clarifying and technical corrections.

B. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction?

We are finalizing the proposed amendments to the Area Source Paint Stripping and Miscellaneous Surface Coating NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously. With the issuance of the mandate in *Sierra Club* v. *EPA,* 40 CFR 63.6(f)(1) and (h)(1) are null and void. The EPA amended 40 CFR 63.6(f)(1) and (h)(1)) on March 11, 2021, to reflect the court order and correct the CFR to remove the SSM exemption. We are eliminating any cross-references to the vacated provisions in the regulatory language, including Table 1 to subpart HHHHHH of part 63 (General Provisions applicability table). We have also revised Table 1 to subpart HHHHHH of part 63 in several respects as is explained in more detail here. For example, we have eliminated the incorporation of the General Provisions' requirement that a source develop an SSM plan. We have also revised certain recordkeeping and reporting that is related to the SSM exemption as described in detail in the proposed rule and summarized again here. As detailed in section III.B.3 of the November 19, 2021, proposal preamble, we are adding general duty regulatory text at 40 CFR 63.11173(h) that reflects the general duty to minimize emissions without differentiating between normal operations, startup and shutdown, and malfunction events in describing the general duty. We are also revising 40 CFR 63.11173(h) to require that the standards apply at all times, consistent with the court decision in *Sierra Club* v. *EPA.*

In establishing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained here, has not

established alternate standards for those periods. Startups and shutdowns are part of normal operations for the paint stripping and surface coating operations at area sources. Paint stripping and surface coating operations inherently involve frequent startup and shutdown while carrying out normal duties, and the emission standards were developed to control emissions in these situations. We have no data indicating that emissions are different during startup or shutdown than during other normal operations. We have determined that facilities in these source categories can meet the applicable emission standards in this NESHAP at all times, including periods of startup and shutdown. The legal rationale and detailed changes for SSM periods that we are finalizing here are set forth in the November 19, 2021, preamble to the proposed rule. See 86 FR 66141–42.

Further, the EPA is not finalizing standards for malfunctions. Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead, they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 63.2) (Definition of malfunction). As discussed in section III.B.3 of the November 19, 2021, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. This reading has been upheld as reasonable by the court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). For these source categories, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section III.B.3 of the November 19, 2021, proposal preamble for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a facility could take in the unlikely event that a facility fails to comply with the standards as a result of a malfunction event.

C. What other changes have been made to the NESHAP?

These rules also finalize, as proposed, revisions to several other NESHAP requirements. We describe the revisions that apply to all the affected source categories in the following paragraphs.

1. Electronic Reporting Requirements

The EPA is finalizing the proposal that owners and operators of paint stripping and surface coating facilities submit electronic copies of initial notifications required in 40 CFR 63.9(b) and 63.11175(a), notifications of compliance status required in 40 CFR 63.9(h) and 63.11175(b), the annual notification of changes report required in 40 CFR 63.11176(a), and the report required in 40 CFR 63.11176(b) through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). For further information regarding the electronic data submission process, please refer to the memorandum titled *Electronic Reporting for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action. No specific form is necessary for the initial notifications required in 40 CFR 63.9(b) and 63.11175(a), notifications of compliance status required in 40 CFR 63.9(h) and 63.11175(b), the annual notification of changes report required in 40 CFR 63.11176(a), or the report required in 40 CFR 63.11176(b). The notifications will be required to be submitted via CEDRI in portable document format (PDF) files. More information is available in the November 19, 2021, proposal preamble (86 FR 66130).

2. Rule Clarifications and Other Changes

We are making plain language clarifications and revisions to better reflect regulatory intent. We also are making other changes, including updating references to equivalent test methods, making technical and editorial revisions, incorporation by reference (IBR) of alternative test methods, and simplifying the petition for exemption process. Our analyses and changes related to these issues are discussed in the following sections.

a. Submarines and Tanks Applicability

The EPA is clarifying in this preamble that the surface coating and paint stripping occurring at area sources of certain types of military equipment, such as military submarines (as opposed to those used for scientific research, for example) and military tanks is potentially subject to 40 CFR part 63, subpart HHHHHH, unless the surface coating or paint stripping is performed on site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such state), the National Aeronautics and Space Administration, or the National Nuclear Security Administration. Surface coating of this type of military equipment at original equipment manufacturers or offsite at a contractor's facility is not covered by the provisions in 40 CFR 63.11169(d)(1) and is subject to the requirements of 40 CFR part 63, subpart HHHHHH.

b. Coating HAP Content Definition

The EPA is amending the definition of ''target HAP containing coating'' in 40 CFR 63.11180 to clarify that compliance with the definition is based on the HAP content of the coating as applied, not on the HAP content of the coating components as purchased from the coating supplier.

c. Spray Gun Cup Liners

The EPA is amending the definition of ''spray-applied coating operations'' in 40 CFR 63.11180 to clarify that the allowance to use spray guns outside of a spray booth is based on the volume of the spray gun paint cup liner and not the volume of the paint cup, in those spray guns that use a disposable cup liner.

d. Circumvention of Paint Cup Capacity Intent

The EPA is also amending the definition of ''spray-applied coating operations'' in 40 CFR 63.11180 to clarify that repeatedly refilling and reusing a 3.0 fluid ounce cup or cup liner or using multiple 3.0 fluid ounce cup liners to complete a single spray-applied coating operation as a means of avoiding rule applicability will be considered an attempt to circumvent the requirements of subpart HHHHHH. The EPA accordingly reserves the right to bring enforcement actions against any person whose action equates to rule circumvention.

e. OSHA Carcinogenic Content

The EPA is removing references to Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) because 29 CFR 1910.1200(d)(4) has been amended and no longer defines which compounds are carcinogens. We are replacing these references to 29 CFR 1910.1200(d)(4) with a list of those target HAP that must be counted if they are present at 0.1 percent by mass or greater in the definition of ''target HAP containing coating'' in 40 CFR 63.11180. All other target HAP must be counted if they are present at 1.0 percent or greater by mass.

f. Non-HAP Solvent Language

The EPA is removing the definition of ''non-HAP solvent'' from 40 CFR 63.11180 because there are no requirements to use non-HAP solvents and the definition has no other use in the rule.

g. Filter Test Method

The EPA is updating the spray booth filter test method in 40 CFR 63.11173, which was previously incorporated by reference, to the most recent American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) method. Section 63.11173 referenced ASHRAE Method 52.1, ''Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter, June 4, 1992.'' This method was retired in January 2009 and replaced by ANSI/ASHRAE Standard 52.2–2017 Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size. The EPA is also adding a reference to EPA Method 319—Determination of Filtration Efficiency for Paint Overspray Arrestors (Appendix A to 40 CFR part 63) to 40 CFR 63.11173 as an alternative to ANSI/ASHRAE Standard 52.2–2017. This is the same method referenced in the NESHAP for Aerospace Manufacturing and Rework (40 CFR part 63, subpart GG) to test paint spray booth filters used to meet the requirements to limit hexavalent chromium emissions.

h. Petition for Exemption Process

The EPA is amending 40 CFR 63.11170 to introduce a simplified petition for exemption process for motor vehicle or mobile equipment surface coating operations that do not spray-apply any coatings that contain the target HAP. Previously, all such sources were subject to the NESHAP, unless they demonstrated to the satisfaction of the Administrator that they do not spray-apply any coatings that contain the target HAP. The rule is being revised to allow sources to submit notification to the Administrator, as a simplified alternative to the petition for exemption process, that they do not spray-apply any coatings that contain the target HAP. Such sources will still be required to retain records that describe the coatings that are spray-applied in order to support the notification, but that information does not need to be reported to the Administrator. The Administrator maintains the authority to verify records retained on site, including whether the notification of exemption was sufficiently demonstrated. Sources may still petition for exemption using the existing process if they want confirmation of exemption.

D. What are the effective and compliance dates of the standards?

The amendments to the NESHAP being promulgated in this action are effective on November 10, 2022. For affected sources, the compliance date for the amendments being promulgated in this action is May 9, 2023. All affected facilities will continue to meet the current requirements of 40 CFR part 63, subpart HHHHHH, until the applicable compliance date of the amended rule. The EPA selected these compliance dates based on experience with similar industries, and the EPA's detailed justification for the selected compliance dates is included in the preamble to the proposed rule (86 FR 66142).

IV. What is the rationale for our final decisions and amendments for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Technology Review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Source Categories

1. What did we propose pursuant to CAA section 112(d)(6) for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

In performing a technology review of paint stripping and miscellaneous surface coating operations, the EPA consulted sources of data that included: the EPA's ECHO database; the EPA's RACT/BACT/LAER Clearinghouse; publicly available state air permit databases; regulatory actions promulgated subsequent to the Paint Stripping and Miscellaneous Surface Coating at Area Sources NESHAP; regional and state regulations and operating permits; site visit reports; and industry information. The EPA's review is described in a memorandum (''technology review memorandum'') titled *Technology Review for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources,* available in the docket for this action. Based on our review, we did not identify any developments in practices, processes, or control technologies for the paint stripping and miscellaneous surface coating operations at area sources source categories, and, therefore, we did not propose any changes to the emission standards under CAA section 112(d)(6). A summary of the EPA's findings in conducting the technology review of paint stripping and miscellaneous surface coating operations was included in the preamble to the proposed action (86 FR 66137).

2. How did the technology review change for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

We are making no changes to the conclusions of the technology review and are finalizing the results of the technology review for the paint stripping and miscellaneous surface coating operations at area sources source categories as proposed.

3. What key comments did we receive on the technology review, and what are our responses?

We received three comments objecting to our decision not to strengthen GACT standards based on a conclusion that there have been no technology developments.

Comment: One commenter stated that the EPA's proposed decision to not strengthen the GACT standards by requiring the use of only coatings that do not contain the target HAP conflicts with the EPA's own recognition that surface coating manufacturers have modified their products to produce new formulas that are free of target HAP. The commenter claimed that the EPA has failed to rationally explain why it does not require widespread use of these nontoxic formulas.

Response: The EPA notes that the current rule requirements have been very successful in moving this source category to HAP-free coatings and achieving significant reductions of metal HAP emissions. In many cases industry has succeeded in its goal of identifying HAP-free alternatives, but there are also many cases where that goal was not achievable. For example, hexavalent chromium-containing primers are particularly important to the U.S. aerospace industry. Interior surfaces and parts of the aircraft must be protected from corrosion for the life of the aircraft because they cannot be accessed once the aircraft is assembled. For this reason, the aerospace industry

is moving very slowly to replace hexavalent chromium-containing primers. Our current approach of requiring controls and work practices has been and will continue to be successful in reducing emissions, while still allowing this industry to produce coated products that meet the required specifications.

Comment: One commenter asserted that the EPA's proposed decision to not strengthen the GACT standards by requiring the use of only coatings that do not contain the target HAP is arbitrary because it invokes widespread technological improvement as a reason not to strengthen the standards. The commenters said that the EPA is obligated to require the use of GACT under 42 U.S.C. 7412(d)(5) and MACT under 42 U.S.C. 7412(d)(2). Under both provisions, the commenter stated, the EPA is required to adopt technologies in use by industry to reduce emissions as emission standards and cannot leave it up to the industry to decide whether to employ these proven technologies.

Response: The EPA affirmed in the original NESHAP that reformulation to HAP-free alternatives was a viable approach to emissions reduction. Coatings manufacturers have found many viable substitutions, but this is not universally true for all of the source categories subject to the NESHAP. The data the EPA has referenced indicating widespread reductions in the use of target HAP is specific to manufacturers of automotive surface coatings and does not cover the other source categories that are subject to the NESHAP. While the automotive industry has seen considerable improvements in surface coating technologies that avoid use of the target HAP in original equipment manufacture, automotive refinishers must sometimes use coatings that contain target HAP. In addition, other industries such as aerospace are still reliant on certain performance characteristics that can currently only be met through use of target HAP-containing coatings. Though viable alternatives are actively being researched through programs such as the Department of Defense's ASETSDefense program, suitable alternatives have not been found for many applications that rely on target HAP (*e.g.,* formulations that include hexavalent chromium compounds for corrosion resistance). The EPA is not required to set MACT standards for area sources, as under 112(d)(5) the EPA may elect to provide GACT standards instead for area sources, which it has done.

Comment: One commenter declared that the EPA's proposed decision to not strengthen the GACT standards by requiring the use of only coatings that do not contain the target HAP is arbitrary because the EPA dismisses the experience of states that have required stronger protections to feasibly reduce emissions. The commenter stated that while the EPA appears to assert that these protections would not reduce emissions, logic and the states' experience contradict that claim. The commenter also said that the EPA appears to claim that it should not adopt these stronger protections because it already considered them, but 42 U.S.C. 7412(d)(6) broadly requires the EPA to consider developments, and the EPA must explain why these developments should not be adopted. The commenter pointed out that in the 2007 rulemaking on which the EPA relies, the EPA speculated that a requirement to use formulas without hexavalent chromium or cadmium ''could'' lead to business closures due to a lack of alternative formulas with sufficient corrosion protection, but those requirements have now been in place for over a decade, and the EPA itself acknowledges that target-HAP free formulas are now more readily available. The commenter asserted that it is irrational and arbitrary for the EPA to continue to rely on speculation that alternative formulas could be inadequate, particularly given that there is zero record evidence that target HAP-free formulas are not widely available or perform worse than toxic formulas. The commenter contended that the EPA must rationally evaluate whether stronger protections should now be adopted in light of these developments and more than a decade of experience after California's ban on the use of the most toxic formulas.

Response: It was the EPA's determination in 2008 that such a ban was not reasonable, feasible, or cost-effective to be widely applied. HAP-free alternatives were available during development of the initial NESHAP, and there has been a continuing trend of further developing such HAP-free alternatives. However, not all coating manufacturers have eliminated coatings that contain the target HAP. Some manufacturers provide the same coating in both a target HAP-free version and one containing the target HAP for certain applications. Additionally, the data on coating manufacturers the EPA has referenced is specific to manufacturers of automotive surface coatings and does not cover the other source categories that are subject to the NESHAP. While the automotive industry has seen considerable improvements in surface coating technologies that avoid use of the target HAP in original equipment manufacture, automotive refinishers must sometimes use coatings that contain target HAP. In addition, other industries such as aerospace are still reliant on target HAP-containing coatings due to a lack of suitable alternatives that meet certain performance characteristics, such as corrosion resistance properties, which in many cases can still only be met with hexavalent chromium-containing coatings. Viable alternatives are actively being researched through programs such as the Department of Defense's Advanced Surface Engineering Technologies for a Sustainable Defense (ASETSDefense) program, and less hazardous alternatives have been authorized where possible, but alternatives have still not been found for many applications.

The commenter also claims that the EPA has dismissed the experiences of states that have required stronger protections to feasibly reduce emissions. However, the only state the commenter has specifically offered as an example is California. We assume that California's ban to which the commenter refers is the 2001 Air Borne Toxic Control Measure for Emissions of Hexavalent Chromium and Cadmium from Motor Vehicle and Mobile Equipment Coatings (ATCM). The ATCM only addresses motor vehicle and mobile equipment surface coatings; it does not cover any of the other source categories subject to the NESHAP. The commenter's statement fails to address other surface coating applications where substitution of non-HAP coatings is not always feasible. Additionally, the ATCM only eliminates the use of cadmium and chromium and does not apply to the other target HAP covered by the NESHAP.

4. What is the rationale for our final approach for the technology review?

For the reasons explained in the preamble to the proposed rules (86 FR 66130, November 19, 2021), and in our analysis of public comments explained above in section IV.A.3 of this preamble, we are making no changes to subpart HHHHHH to require additional controls pursuant to CAA section 112(d)(6) and are finalizing the results of the technology review as proposed.

B. Electronic Reporting

1. What did we propose?

We proposed that owners and operators of paint stripping and surface coating facilities submit electronic copies of initial notifications required in 40 CFR 63.9(b) and 63.11175(a),

notifications of compliance status required in 40 CFR 63.9(h) and 63.11175(b), the annual notification of changes report required in 40 CFR 63.11176(a), and the report required in 40 CFR 63.11176(b) through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). More detailed information on these changes can be found in the November 19, 2021, proposal preamble (86 FR 66140).

2. What changed since proposal?

We are finalizing the electronic reporting provisions as proposed with no changes (86 FR 66140, November 19, 2021).

3. What key comments did we receive and what are our responses?

Comment: One commenter suggested that the EPA minimize the requirements for electronic reporting to the extent possible, allow flexibility in the format, and allow hard copy reporting as needed to reduce the burden on small businesses.

Another commenter argued that the data obtained through electronic reporting will be highly incomplete due to the lack of internet access among small businesses and because of how complicated CEDRI is. The commenter claimed that making electronic reporting a requirement would create high rates of noncompliance with no real benefit to the environment.

Response: The EPA recognizes that there will be a slight burden to gain initial familiarity with the CEDRI system. However, after the initial process, the EPA believes electronic reporting will lessen burden for all involved parties. The EPA does allow flexibility in the format of the reports, and there is no template or prescriptive data entry process unlike for many other rules. The required documents, each of which involves fairly minimal information requirements, may be submitted in a standard PDF format. Allowing hard copy reporting would reduce the effectiveness of this program, as the intent is to create an electronic record that lessens the burden on all involved, and a hybrid mixture of new documents in both electronic and paper formats would be unwieldy.

Comment: One commenter stated that the small business community lacks the resources that larger businesses have to accomplish electronic reporting and that many shops do not have internet access or computers. According to the commenter, many shops that would regularly utilize internet access at public libraries have not been able to do so during the COVID–19 pandemic.

Response: It is the EPA's position that internet access is easily obtained, and temporary disruptions due to a pandemic are not indicative of, or used to determine, standards that would typically apply.

4. What is the rationale for our final approach for the electronic reporting provisions?

For the reasons explained in the preamble to the proposed rules (86 FR 66130, November 19, 2021), and in the comment responses above in section IV.B.3 of this preamble, we are finalizing the electronic reporting provisions for 40 CFR part 63, subpart HHHHHH, as proposed.

C. SSM Provisions

1. What did we propose?

In the November 19, 2021, action, we proposed amendments to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP to remove and revise provisions related to SSM that are not consistent with the statutory requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (86 FR 66141).

2. What changed since proposal?

We are finalizing the SSM provisions as proposed with no changes (86 FR 66130, November 19, 2021).

3. What key comments did we receive and what are our responses?

No comments were received on our proposed changes to the SSM provisions.

4. What is the rationale for our final approach for the SSM provisions?

For the reasons explained in the preamble to the proposed rule (86 FR 66130, November 19, 2021), we are finalizing the SSM provisions for 40 CFR part 63, subpart HHHHHH, as proposed.

D. Petition for Exemption

1. What did we propose?

In the November 19, 2021, action, we proposed a simplified petition for exemption process for motor vehicle or mobile equipment surface coating operations that do not spray-apply any coatings that contain the target HAP. More information concerning the simplified petition for exemption process is in the preamble to the proposed rules (86 FR 66141).

2. What changed since proposal?

We are finalizing the simplified alternative to the petition for exemption process as proposed with no changes (86 FR 66130, November 19, 2021).

3. What key comments did we receive and what are our responses?

We received three comments concerning the petition for exemption process for motor vehicle or mobile equipment surface coating operations.

Comment: One commenter urged the EPA to delete the petition for exemption process for motor vehicle or mobile equipment surface coating operations. The commenter asserted that the EPA is incorrect in its conclusion that autobody shops are often unaware of the HAP content of the coatings they apply. The commenter stated that manufacturers provide information to their customers such that automotive refinishing operations know the HAP composition of the products that they use. In addition, many automotive refinishing operations have state and local air permits that require the disclosure of a considerable amount of information on these operations and their emissions. The commenter argued that automatically subjecting automotive refinishing operations to the rule also places an excessive burden on the smallest of the sources affected by the rule. For consistency and to reduce burden (especially for small business operations), the commenter recommended that the EPA revise the rule so that miscellaneous metal parts, plastic parts, and automotive refinishing operations are not subject to the rule unless they use coatings containing the target HAPs of concern.

Response: The EPA notes that sources that perform surface coating of miscellaneous metal parts and plastic parts are only subject to the NESHAP standards if they spray-apply target HAP-containing coatings. That is because it is easier for them (and the EPA/delegated authorities) to know and track the HAP content of these coatings. In contrast, because automotive refinishing operations are relatively numerous, as well as less consistent in facility operation and in the coatings that they may purchase or use at any given time, the EPA has concerns that changing the general applicability would make it even more difficult to support compliance with the standards.

In addition, the target HAP that are the subject of this rule are not a priority for state and local air agencies, except for a few cases—such as California's 2001 ban on cadmium and chromium—and are not addressed in or limited by

state and local air quality permits. Therefore, the information that is collected from automotive refinishers under this rule would not otherwise be readily available. The EPA has, however, reduced the burden on automotive refinishing facilities by allowing them to submit a notification to the EPA that they are not subject rather than having to petition the EPA for a determination that they are not subject.

The EPA's assessment in the original 2008 rule was that most sources were already in compliance with these standards and that, for those that were not, achieving compliance would not be overly burdensome. Because target HAP-free coatings have become even more available in recent years, achieving compliance is arguably even less burdensome than before the rule.

Comment: One commenter argued that the requirement that autobody shops must file a petition to have EPA approve their exempt status singles them out from all other businesses that spray paint on metal and plastic substrates. The commenter stated that the requirement to file a petition for exemption adds a substantial burden on these very small businesses that others do not have. Due to the extra burden of filing a petition, the commenter said that it is likely that tens of thousands of shops are out of compliance with a rule when they technically should not be subject to it at all.

Response: The EPA maintains that autobody shops operate differently from the other miscellaneous surface coating operations and that distinguishing them is merited due to these differences. However, we have no evidence that the burden of electronically submitting a PDF is onerous, and we note that there is a benefit for all involved parties to have readily accessible documentation of basic facts about subject sources and their compliance with the NESHAP requirements. The commenter's claim that the burden of filing a petition for exemption is a cause of source noncompliance is unsubstantiated. In fact, the EPA's proposed simplified alternative to the petition for exemption process reduces possible burden.

Comment: One commenter recommended that if the EPA chooses to retain the petition for exemption requirements on autobody shops, it is essential to fix 40 CFR 63.11170(a)(2) to exempt shops from only the coatings portion of the subpart and not the paint stripping portion. Likewise, the commenter urged the EPA to clarify that using MeCl stripper does not preclude a shop from petitioning for exemption from the coatings portion. Finally, the commenter requested that the EPA clarify that a petition for exemption does not require that an initial notification be filed at the same time since a granted petition obviates the need for an initial notification.

Response: The EPA maintains it is already clear that the exemption only applies to activities under 40 CFR 63.11170(a)(2), and that is made explicit in the example petition for exemption document that can be found on the EPA's Collision Repair Campaign Documents web page (*https://www.epa.gov/collision-repair-campaign/collision-repair-campaign-documents*). However, to improve clarity, the EPA is revising the second sentence of 40 CFR 63.11170(a)(2) such that the rule language no longer refers to ''an exemption from this subpart,'' and instead refers to ''an exemption from the surface coating provisions of this subpart.'' The NESHAP does require that each facility provide an initial notification, to include information specified in 40 CFR 63.11175(a), regardless of whether or when the facility chooses to additionally submit a petition for exemption, or the simplified alternative notification that they do not spray-apply coating containing the target HAP.

4. What is the rationale for our final approach for the simplified alternative to the petition for exemption?

For the reasons explained in the preamble to the proposed rules (86 FR 66130, November 19, 2021), and in the comment responses above in section IV.D.3 of this preamble, we are finalizing the provisions for a simplified alternative to the petition for exemption process for 40 CFR part 63, subpart HHHHHH, as proposed.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

Currently, we estimate 39,812 area source facilities are subject to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP and operating in the United States. The affected source under the NESHAP is the collection of any and all of the items listed in (1) through (6) of this section V.A of the preamble. Not all affected sources will have all of the items listed in (1) through (6) of this section V.A of the preamble.

(1) Mixing rooms and equipment;

(2) Spray booths, ventilated prep stations, curing ovens, and associated equipment;

(3) Spray guns and associated equipment;

(4) Spray gun cleaning equipment;

(5) Equipment used for storage, handling, recovery, or recycling of cleaning solvent or waste paint; and

(6) Equipment used for paint stripping at paint stripping facilities using paint strippers containing MeCl.

B. What are the air quality impacts?

Estimated emissions of target HAP and MeCl from the facilities in the Paint Stripping and Surface Coating source categories are not expected to change in any significant way due to this review or its associated amendments to the NESHAP.

These amendments acknowledge that all area sources in the source categories must comply with the relevant emission standards at all times, including periods of SSM. We were unable to quantify the emissions that occur during periods of SSM or the specific emissions reductions that will occur as a result of this action. However, eliminating the SSM exemption has the potential to reduce emissions by requiring facilities to meet the applicable standard during SSM periods.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*e.g.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. These amendments would have no effect on the energy needs of the affected paint stripping and surface coating facilities and would, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

We estimate that each facility in the source categories will experience one-time costs of approximately $400. These costs are a combination of the estimated reporting and recordkeeping costs (2 technical hours), and the time to read and understand the rule amendments (2 technical hours).[1] Costs associated with adoption of electronic reporting were estimated as part of the reporting and recordkeeping costs and include time for sources to familiarize themselves with electronic record systems.

For further information on the potential costs, see the memorandum titled *Proposal Economic Impact Analysis for the National Emissions*

[1] The labor costs were calculated using the applicable labor rates from the latest version of the Bureau of Labor Statistics (BLS) survey titled National Occupational Employment and Wage Estimates United States located at: *https://www.bls.gov/oes/current/oes_nat.htm#00-0000.*

Standards of Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources, available in the docket for this action.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision makers about the potential economic consequences of the compliance costs outlined in section V.C. of this preamble. To assess the maximum potential impact, the largest cost expected to be experienced in any one year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the final revisions to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, the total cost is estimated to be approximately $400 per facility in the first year of the rule. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. Of the facilities potentially affected by the final revisions to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, we estimate that the vast majority are small entities. However, the annualized costs associated with the final requirement is from 0.0 to 0.2 percent of annual sales revenue for the ultimate owner of those facilities, well below the 1 percent threshold. Therefore, there are no significant economic impacts on a substantial number of small entities from these amendments.

E. What are the benefits?

As stated in section V.B. of the November 19, 2021, proposal preamble (86 FR 66130), we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption, although this change has the potential to reduce emissions of the target HAP and MeCl.

Because these amendments are not considered economically significant, as defined by Executive Order 12866, we did not monetize the benefits of reducing these emissions. This does not mean that there are no benefits associated with the potential reduction in target HAP and MeCl from this rule.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms; specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 was signed to advance racial equity and support underserved communities through Federal government actions (86 FR 7009, January 20, 2021). The EPA defines environmental justice (EJ) as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies'' (*https://www.epa.gov/environmentaljustice).* In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution. To examine the potential for any EJ issues that might be associated with the source categories, we performed a demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. The EPA then compared the data from this analysis to the national average for the demographic indicators.

In the analysis, we evaluated the proximity of minority and low-income groups within the populations that live near facilities. Data limitations preclude a complete analysis. This NESHAP applies to sources in many different industries, often operating as small facilities, and limited location data of subject facilities was available. As described in the technology review memorandum, available in the docket for this action, and section II.C of this preamble, we did conduct searches for available information. However, the results do not account for emission or risk impacts from sources and may not be fully representative of the full distribution of facilities across all locations and populations. This analysis is intended to function as a guide to possible proximity disparities.

Based upon the number of facilities in this analysis and their proximity to urban centers, the category minority demographics are higher than the national average while individual facilities for a large number of sites will significantly exceed the national average demographics for every group due to being in urban locations. The results of the demographic analysis for populations within 5 km of the facilities within the source categories indicate that the minority population (being the total population minus the white population) is higher when compared to the national percentage (49 percent versus 40 percent). These comparisons also hold true for other demographic groups (African American, Other and Multiracial Groups, Hispanics, and people living in linguistic isolation). The African American demographic group shows the highest difference when compared to the national average (17 percent vs 12 percent). The remaining demographics identified above were above the national average by 2 percent. The methodology and the results of the demographic analysis are presented in a technical report, *Technology Review— Analysis of Demographic Factors for Populations Living Near the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Source Categories,* available in this docket for this action. While demographic analysis shows some population categories that are above the national average, this action is not likely to change levels of emissions near facilities. Based on our technology review, we did not identify any add-on control technologies, process equipment, work practices or procedures that were not previously considered during development of the 2008 Paint Stripping and Miscellaneous Surface Coating at Area Sources NESHAP, and we did not identify developments in practices, processes, or control technologies that would result in additional emission reductions.

G. What analysis of children's environmental health did we conduct?

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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.

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to OMB under the PRA.

The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2268.08. You can find a copy of the ICR in the docket for this action (Docket ID No. EPA–HQ–OAR–2021–0016), and it is briefly summarized here.

As part of the technology review for the NESHAP, the EPA is not revising the emission limit requirements. The EPA is revising the SSM provisions that previously applied to the NESHAP and is proposing the use of electronic data reporting for future notifications and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart HHHHHH.

Respondents/affected entities: Facilities performing paint stripping and surface coating operations at area sources.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart HHHHHH).

Estimated number of respondents: In the 3 years after the final rulemaking, 38,194 respondents per year would be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 76,388. Years 2 and 3 would have no responses.

Total estimated burden: The average annual burden to the paint stripping and surface coating operations at area source facilities over the 3 years is estimated to be 43,900 hours (per year). The average annual burden to the Agency over the 3 years is estimated to be 0 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the facilities is $5,200,000 in labor costs for the first 3 years. The average annual capital and operation and maintenance (O&M) cost savings is $27,100, because photocopying and postage will no longer be necessary in submitting notifications and reports. The total average annual Agency cost over the first 3 years is estimated to be $0.

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. The economic impact associated with the proposed requirements in this action for the affected small entities is described in section V.D. above.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. 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. No tribal facilities are known to be engaged in any of the industries that would be affected by this action. Thus, Executive Order 13175 does not apply to this action. Nevertheless, consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, EPA sent out consultation letters to 574 federally recognized tribes offering tribal officials the opportunity to meaningfully engage on a government-to-government basis. We did not receive any requests for consultation. In addition, on June 24, 2021, EPA provided an overview of the proposed action on the monthly National Tribal Air Association (NTAA) air policy call to provide tribal environmental professionals an opportunity to ask questions.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. We are amending the Paint Stripping and Miscellaneous Surface Coating Operations at Area Source NESHAP in this action to update references to ASHRAE Method 52.1, ''Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter, June 4, 1992,'' with ANSI/ASHRAE Standard 52.2–2017 ''Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size.'' Both methods measure paint booth filter efficiency to measure the capture efficiency of paint overspray arrestors with spray-applied coatings. The EPA is also amending the NESHAP to include EPA Method 319—Determination of Filtration Efficiency for Paint Overspray Arrestors (Appendix A to 40 CFR part 63), as an alternative to ANSI/ASHRAE Standard 52.2–2017.

The ANSI/ASHRAE standard is available from the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle NE, Atlanta, GA 30329. See *https://www.ashrae.org.*

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The methodology and the results of the demographic analysis are presented in a technical report, *Technology Review — Analysis of Demographic Factors for Populations Living Near the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Source Categories,* available in this docket for this action.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 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 63

Environmental protection, Air pollution control, Appendix A, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is amending part 63 of title 40, chapter I, of the Code of Federal Regulations as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:
■ a. Revising paragraph (d)(1); and
■ b. Adding paragraph (d)(2).

The revision and addition read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(d) * * *

(1) American Society of Heating, Refrigerating, and Air-Conditioning Engineers Method 52.1, *Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter* June 4, 1992; IBR approved for § 63.11516(d).

(2) ANSI/ASHRAE Standard 52.2–2017, *Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size,* copyright 2017; IBR approved for § 63.11173(e).

* * * * *

Subpart HHHHHH—National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources

■ 3. Amend § 63.11170 by revising paragraph (a)(2) to read as follows:

§ 63.11170 Am I subject to this subpart?

(a) * * *

(2) Perform spray application of coatings, as defined in § 63.11180, to motor vehicles and mobile equipment including operations that are located in stationary structures at fixed locations, and mobile repair and refinishing operations that travel to the customer's location, except spray coating applications that meet the definition of facility maintenance in § 63.11180. However, if you are the owner or operator of a motor vehicle or mobile equipment surface coating operation, you may petition the Administrator for an exemption from the surface coating provisions of this subpart if you can demonstrate, to the satisfaction of the Administrator, that you spray apply no coatings that contain the target HAP, as defined in § 63.11180. Petitions must include a description of the coatings that you spray apply and your certification that you do not spray apply any coatings containing the target HAP. If circumstances change such that you intend to spray apply coatings containing the target HAP, you must submit the initial notification required by § 63.11175 and comply with the requirements of this subpart. On and after May 9, 2023, you may submit a notification to the Administrator that you do not spray apply any target HAP containing coatings, as defined in § 63.11180, in place of a petition. You are still required to retain records that describe the coatings that are spray applied, but that information does not need to be reported to the Administrator. The Administrator maintains the authority to verify records retained on site, including whether the notification of exemption was sufficiently demonstrated. Alternatively, if you are the owner or operator of a motor vehicle or mobile equipment surface coating operation and you wish for a formal determination, you may still petition the Administrator for an exemption from this subpart.

* * * * *

■ 4. Amend § 63.11173 by revising paragraph (e)(2)(i) and adding paragraph (h) to read as follows:

§ 63.11173 What are my general requirements for complying with this subpart?

* * * * *

(e) * * *

(2) * * *

(i) All spray booths, preparation stations, and mobile enclosures must be fitted with a type of filter technology that is demonstrated to achieve at least 98 percent capture of paint overspray. The procedure used to demonstrate filter efficiency must be consistent with the ANSI/ASHRAE Standard 52.2–2017 (incorporated by reference, see § 63.14). The filter efficiency shall be based on the difference between the quantity of dust injected and the quantity captured on the final filter with no test device in place. The filter will be challenged with 100 grams of loading dust and the final filter weight will be to the nearest 0.1 gram. EPA Method 319 of Appendix A to 40 CFR part 63 may be used as an alternative to ANSI/ASHRAE Standard 52.2–2017. Owners and operators may use published filter efficiency data provided by filter vendors to demonstrate compliance with this requirement and are not required to perform this measurement. The requirements of this paragraph do not apply to water wash spray booths that are operated and maintained according to the manufacturer's specifications.

* * * * *

(h) You must be in compliance with the requirements in this subpart at all times. At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 5. Amend § 63.11175 by adding paragraph (c) to read as follows:

§ 63.11175 What notifications must I submit?

* * * * *

(c) On and after May 9, 2023, the owner or operator shall submit the initial notifications required in § 63.9(b) and paragraph (a) of this section and the notification of compliance status required in § 63.9(h) and paragraph (b) of this section to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI) (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov*)). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is confidential business information (CBI) shall submit a complete notification, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Paint Stripping and Miscellaneous Surface Coating Operations Sector Lead, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

■ 6. Amend § 63.11176 by adding paragraphs (c) through (e) to read as follows:

§ 63.11176 What reports must I submit?

* * * * *

(c) On and after May 9, 2023, the owner or operator shall submit the Annual Notification of Changes Report required in paragraph (a) of this section and the MeCl report required in paragraph (b) of this section to the EPA via CEDRI (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov*)). The owner or operator must upload to CEDRI an electronic copy of each applicable report in PDF. The applicable report must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Paint Stripping and Miscellaneous Surface Coating Operations Sector Lead, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(d) If you are required to electronically submit a report through the CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; provide to the Administrator a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of *force majeure* for failure to timely comply with the reporting requirement. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of *force majeure,* you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the *force majeure* event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs. The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 7. Amend § 63.11180 by:

■ a. Revising the definition of ''*Materials that contain HAP* or *HAP-containing materials*''*;*

■ b. Removing the definition of ''*Non-HAP solvent*''*;* and

■ c. Revising the definitions of ''*Spray-applied coating operations*'' and ''*Target HAP containing coating*''.

The revisions read as follows:

§ 63.11180 What definitions do I need to know?

* * * * *

Materials that contain HAP or *HAP-containing materials* mean, for the purposes of this subpart, materials that contain any individual target HAP that is a carcinogen at a concentration greater than 0.1 percent by mass, or greater than 1.0 percent by mass for any other individual target HAP.

* * * * *

Spray-applied coating operations means coatings that are applied using a hand-held device that creates an atomized mist of coating and deposits the coating on a substrate. For the purposes of this subpart, spray-applied coatings do not include the following materials or activities:

(1) Coatings applied from a hand-held device with a paint cup capacity that is equal to or less than 3.0 fluid ounces (89 cubic centimeters) for devices that do not use a paint cup liner, or with a paint cup liner capacity that is equal to or less than 3.0 fluid ounces (89 cubic centimeters) for devices that use a paint cup liner. Repeatedly refilling and reusing a 3.0 fluid ounce cup or cup liner or using multiple 3.0 fluid ounce cup liners to complete a single spray applied coating operation as a means of avoiding rule applicability will be considered an attempt to circumvent the requirements of this subpart.

(2) Surface coating application using powder coating, hand-held, non-refillable aerosol containers, or non-atomizing application technology, including, but not limited to, paint brushes, rollers, hand wiping, flow coating, dip coating, electrodeposition coating, web coating, coil coating, touch-up markers, or marking pens.

(3) Thermal spray operations (also known as metallizing, flame spray, plasma arc spray, and electric arc spray, among other names) in which solid metallic or non-metallic material is heated to a molten or semi-molten state and propelled to the work piece or substrate by compressed air or other gas, where a bond is produced upon impact.

* * * * *

Target HAP containing coating means a spray-applied coating that contains any individual target HAP that is a carcinogen at a concentration greater than 0.1 percent by mass, or greater than 1.0 percent by mass for any other individual target HAP compound. For the target HAP, this corresponds to coatings that contain cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by mass (of the metal), and materials that contain manganese in amounts greater than or equal to 1.0 percent by mass (of the metal). For the purpose of determining whether materials you use contain the target HAP compounds, you may rely on formulation data provided by the manufacturer or supplier, such as the material safety data sheet (MSDS), as long as it represents each target HAP compound in the material that is present at 0.1 percent by mass or more for carcinogens and at 1.0 percent by mass or more for other target HAP compounds. The target HAP content of coatings is based on the HAP content of the coating as applied, not on the HAP content of the coating components as purchased from the coating supplier. However, coatings that do not contain the target HAP based on the HAP content as purchased will also meet the definition based on the HAP content as applied.

* * * * *

■ 8. Revise table 1 to subpart HHHHHH to read as follows:

TABLE 1 TO SUBPART HHHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART HHHHHH OF PART 63

Citation	Subject	Applicable to subpart HHHHHH	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability of subpart HHHHHH is also specified in § 63.11170.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources.	Yes	§ 63.11174(b) of subpart HHHHHH exempts area sources from the obligation to obtain Title V operating permits.
§ 63.1(c)(5)	Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program to Major Sources Before Relevant Standard is Set.	No	§ 63.11174(b) of subpart HHHHHH exempts area sources from the obligation to obtain Title V operating permits.
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.11180.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Fragmentation	Yes.	
§ 63.5	Construction/Reconstruction of major sources.	No	Subpart HHHHHH applies only to area sources.
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.11172 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	§ 63.11172 specifies the compliance dates.
§ 63.6(e)(1)–(2)	Operation and Maintenance Requirements.	No	See § 63.11173(h) for general duty requirement.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	No	No startup, shutdown, and malfunction plan is required by subpart HHHHHH.
§ 63.6(f)(1)	Compliance with Nonopacity Emission Standards—Applicability.	No..	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart HHHHHH does not establish opacity or visible emission standards.
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7	Performance Testing Requirements	No	No performance testing is required by subpart HHHHHH.

TABLE 1 TO SUBPART HHHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS—Continued TO SUBPART HHHHHH OF PART 63

Citation	Subject	Applicable to subpart HHHHHH	Explanation
§ 63.8	Monitoring Requirements	No	Subpart HHHHHH does not require the use of continuous monitoring systems.
§ 63.9(a)–(d)	Notification Requirements	Yes	§ 63.11175 specifies notification requirements.
§ 63.9(e)	Notification of Performance Test	No	Subpart HHHHHH does not require performance tests.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart HHHHHH does not have opacity or visible emission standards.
§ 63.9(g)	Additional Notifications When Using CMS.	No	Subpart HHHHHH does not require the use of continuous monitoring systems.
§ 63.9(h)	Notification of Compliance Status	No	§ 63.11175 specifies the dates and required content for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes	§ 63.11176(a) specifies the dates for submitting the notification of changes report.
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in § 63.11177.
§ 63.10(b)(2)(i)–(xi)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	No	Subpart HHHHHH does not require startup, shutdown, and malfunction plans, or CMS.
§ 63.10(b)(2)(xii)	Waiver of recordkeeping requirements	Yes.	
§ 63.10(b)(2)(xiii)	Alternatives to the relative accuracy test	No	Subpart HHHHHH does not require the use of CEMS.
§ 63.10(b)(2)(xiv)	Records supporting notifications	Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)	Additional Recordkeeping Requirements for Sources with CMS.	No	Subpart HHHHHH does not require the use of CMS.
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.11176.
§ 63.10(d)(2)–(3)	Report of Performance Test Results, and Opacity or Visible Emissions Observations.	No	Subpart HHHHHH does not require performance tests, or opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	No	Subpart HHHHHH does not require startup, shutdown, and malfunction reports.
§ 63.10(e)	Additional Reporting requirements for Sources with CMS.	No	Subpart HHHHHH does not require the use of CMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart HHHHHH does not require the use of flares.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses of State Air Pollution Control Agencies and EPA Regional Offices.	Yes.	
§ 63.14	Incorporation by Reference	Yes	Test methods for measuring paint booth filter efficiency and spray gun transfer efficiency in § 63.11173(e)(2) and (3) are incorporated and included in § 63.14.
§ 63.15	Availability of Information/Confidentiality	Yes.	
§ 63.16(a)	Performance Track Provisions—reduced reporting.	Yes.	
§ 63.16(b)–(c)	Performance Track Provisions—reduced reporting.	No	Subpart HHHHHH does not establish numerical emission limits.

[FR Doc. 2022–24129 Filed 11–9–22; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[PS Docket No. 15–94; FCC 22–75; FR ID 110632]

The Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communication Commission (the ''FCC'' or ''Commission''), implements changes to its rules governing the Emergency Alert System (EAS) to improve the clarity and accessibility of EAS messages distributed to the public.

DATES: Effective December 12, 2022. The incorporation by reference of certain publications listed in the rule was approved by the Director as of April 23, 2012.

FOR FURTHER INFORMATION CONTACT: Chris Fedeli, Attorney Advisor, Public Safety and Homeland Security Bureau at 202–418–1514 or *Christopher.Fedeli@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (*Order*) in PS Docket No. 15–94, FCC 22–75, adopted on September 29, 2022 and released on September 30, 2022. The full text of this document is available at *https://www.fcc.gov/document/fcc-improves-accessibility-and-clarity-emergency-alerts.*

Accessible Formats

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis

Introduction

1. To improve the clarity and accessibility of alerts, the Commission adopts rules to facilitate the increased use of the internet Protocol-based Common Alerting Protocol (CAP) format for certain types of EAS alerts. CAP-based alerts typically provide more information than the corresponding alerts delivered in legacy format. Therefore, in this Report and Order, the Commission directs EAS Participants to check whether certain types of alerts are available in CAP format and, if so, to transmit the CAP version of the alert rather than the legacy-formatted version. The Commission also revises the prescribed text that EAS Participants use to identify certain alerts regarding national emergencies and to announce EAS tests by eliminating technical jargon and replacing it with plain language terms that will be more easily understood by the public.

A. Transmitting More Alert Messages in CAP Format

2. The Commission's rules currently permit, but do not require, EAS Participants to check for CAP-format versions of state and local area alerts at the time they receive legacy EAS-format alerts and, if the same alert is available in both formats, to transmit the CAP version rather than the legacy EAS version. The Commission is now requiring EAS Participants, upon receiving a legacy EAS alert message, to check whether a CAP version of the same alert is available on the Federal Emergency Management Agency's (FEMA) internet-based platform known as the Integrated Public Alert and Warning System (IPAWS) by polling the IPAWS feed for CAP-formatted EAS messages. If a CAP version is available, the Commission requires EAS Participants to transmit the CAP version rather than the legacy version. In addition, to allow sufficient time for a CAP version to appear without unduly delaying transmission of the alert, the Commission requires EAS Participants not to transmit an alert in legacy format until at least 10 seconds after receiving its header codes unless they confirm by polling the IPAWS feed that no matching CAP version of the message is available. As discussed below, this requirement applies only to valid alert messages relating to event categories and locations for which the EAS Participant normally transmits such alerts pursuant to the State EAS Plan, but does not apply to national emergency messages, messages associated with national tests of the EAS, or required weekly test messages.

3. The Commission requires that, if an EAS Participant has received both a legacy EAS version and a CAP-formatted version of the same alert, it must transmit the CAP version, not the legacy EAS version. In other words, it must ''prioritize'' the CAP message. CAP-formatted alerts can relay much more data than legacy alerts, which can relay only an audio message and a limited amount of encoded data. EAS Participants may receive legacy and CAP alerts at different times, however, and under the current rules, if an EAS Participant receives the legacy version of an alert first, it might process that version and transmit it to the public even if a CAP version of the same alert arrives seconds later, leaving the potentially expanded content in the CAP version unused.

4. Requiring EAS Participants to check for CAP-formatted versions of alerts and use them, if available, will increase the proportion of alerts distributed to the public that include enhanced information. Several commenters support mandatory CAP polling and prioritization for this reason. The Accessibility Coalition, for example, comments that ''[g]iven the greater capability of the CAP-based alerts, . . . a CAP-based alert should be checked for and utilized when possible . . .'' NCTA agrees that ''[e]xpanding the use of triggered CAP polling as proposed is a positive step toward providing all Americans more reliable and accessible emergency alerts.'' Moreover, as Gary Timm points out, the requirement the Commission is adopting would ''make good on the Commission's promise to the Commission's emergency management partners'' that CAP-formatted alerts will ''improve the messaging available through the EAS.''

5. The Commission is not persuaded by the arguments of commenters that oppose mandated CAP polling. For example, Donald Walker argues that mandating CAP polling ''would likely impose significant monetary and time costs for development on equipment manufacturers as well as . . . EAS Participants,'' especially broadcasters, and that ''the public safety benefits of having matching audio and text crawls [would not] outweigh[ ] the burden that would be placed on the industry.'' However, Walker fails to provide any factual information to support his assertions regarding the costs or time to implement mandatory CAP polling and prioritization, and Section III.E below explains the Commission's basis for finding the costs will likely be relatively low. Walker also ignores the significant public safety benefits that the increased clarity of the CAP-formatted visual crawl will provide for people who are deaf and hard of hearing (even if the text does not precisely match the audio version of an alert), and he fails to account for the benefits of more informative readable text on the screen for other viewers who may rely on both the visible scroll and the audible versions of alert messages to fully understand them.

6. Similarly, the Commission is not persuaded by NAB and other parties who argue against mandatory CAP polling and prioritization based on the fact that the National Weather Service (NWS) does not currently distribute alerts in CAP format over IPAWS due to concerns about issuing duplicative

alerts for the same weather emergency. NAB contends that ''[a]lthough NAB appreciates the FCC's forethought in seeking to increase the accessibility of EAS alert crawls, the fact that the proposed new process will not include weather-related alerts issued by NWS may frustrate the realization of this goal for the foreseeable future.'' However, the Communications Security, Reliability, and Interoperability Council (CSRIC), an FCC advisory committee, recently analyzed the concerns about duplicative alerts that, until now, have led NWS to refrain from distributing CAP-formatted alerts, and identified and evaluated several potential changes that could ameliorate or resolve those concerns. The CSRIC recommendations could provide a basis for NWS to begin issuing CAP-formatted alerts over IPAWS in the foreseeable future, in which case the rule the Commission adopts today would require EAS Participants to transmit them.

7. Even if NWS does not change its approach in the near term, there are thousands of state and local alert originators that distribute EAS alerts in CAP format, covering numerous non-weather emergencies that pose harm to human health and property. The Commission does not see the logic of foreclosing the benefits to public safety of increased CAP usage for these state and local alerts just because NWS does not distribute CAP alerts at present. The Commission also disagrees with NAB's suggestion that mandatory polling might result in ''unintended consequences'' or ''confusion caused by only a small percentage of EAS alerts including matching visual crawls and audio messages'' NAB fails to explain what types of unintended consequences it is referring to, and the Commission finds its assertions about potential confusion to be entirely speculative. On the contrary, the Commission concludes that mandating CAP polling will reduce the potential for confusion and enhance public safety by ensuring a seamless transition at whatever point NWS decides to begin issuing CAP alerts over IPAWS.

8. *Timing of Mandatory CAP Polling.* In the *Accessibility NPRM,* the Commission proposed requiring CAP polling upon receipt of a state or local legacy alert, but sought comment on whether ''EAS Participants [should] be allowed some minimum time frame, for example, 5–15 seconds,'' to account for delays in the CAP message becoming available. Based on concerns raised in the record about the Commission's proposal to require polling at the time the legacy alert is received, the Commission modifies its proposal to include a brief timing delay. Specifically, the Commission requires that, when an EAS Participant receives a legacy-format alert that (i) is valid, (ii) covers a type of event and a geographic area for which the EAS Participant normally transmits alerts to the public pursuant to its State EAS Plan (but excluding messages with the EAN, NPT, or RWT event codes), and (iii) is not a duplicate of a CAP-formatted message it has already received, the EAS Participant must poll the IPAWS feed for a CAP version of the legacy alert at least 10 seconds after detection of the legacy alert's initial header code. For this purpose, two EAS messages are considered ''duplicates'' or ''versions'' of the same alert if the originator codes, event codes, location codes, and date-time codes in the headers of both messages are all identical, and the valid time period codes in the headers cover approximately the same periods of time, with allowances for the way CAP and legacy messages express valid time periods differently. The 10-second waiting period for CAP polling does not apply if the EAS Participant has already acquired the CAP version through polling the IPAWS feed prior to the 10-second threshold. In such instances, the EAS Participant need not poll IPAWS again or wait 10 seconds to send the alert, which must be sent in CAP format.

9. The parties' comments persuade us that requiring CAP polling immediately upon detection of a legacy alert, as the Commission originally proposed, would be counterproductive. When an alert originator sends an alert in both CAP and legacy formats, the record establishes that in many cases the CAP version will not appear on the IPAWS server until a few seconds after EAS Participants have received the legacy alert header code. Accordingly, a rule requiring immediate polling would fail to detect many CAP alerts by polling too early. By delaying the required polling until at least 10 seconds after receipt of the legacy alert's initial header code, the Commission allows sufficient time for the CAP version of the alert to appear and be retrieved, and the Commission significantly reduces the risk that an EAS Participant will send a legacy alert when a CAP version is available.

10. The Commission agrees with the Accessibility Coalition that, since ''time is of the essence in emergencies,'' the CAP polling rule should not cause significant delays in transmitting alert content to the public. The record indicates that most EAS devices require at least 15 seconds to process and transmit a legacy alert after the legacy header code is first detected. Thus, requiring EAS participants to wait 10 seconds before polling does not delay the normal time sequence for transmission of a legacy alert if no CAP version of the alert is available. With respect to Gary Timm's suggestion that we ''set a minimum CAP Prioritization Seek Time of 5 or 10 seconds . . . ,'' the Commission finds five seconds to be unnecessarily short, given that most EAS devices require at least 15 seconds to process and transmit a legacy alert after the legacy header code is first detected, and could preclude detection of matching CAP messages in a number of cases when more time was available for the CAP alert to become available.

11. The Commission recognizes that setting a minimum waiting period of more than 10 seconds would further ''increase the likelihood that a matching CAP message will be found.'' However, the Commission is concerned that requiring a waiting period longer than 10 seconds risks unduly delaying the transmission of alerts. At the same time, the Commission's rule gives EAS Participants flexibility to wait longer than 10 seconds to poll for CAP messages if they believe their individual circumstances or usual polling cycle so warrants. The Commission further clarify that if an EAS Participant has detected a CAP alert message concerning a time-sensitive emergency and is trying to retrieve it, but it is taking an unreasonably long time to finish downloading the full content of the message from the IPAWS server due to factors such as internet protocol (IP) transport latency, the EAS Participant may proceed to transmit the received legacy version of the same alert right away. The Commission leave it to EAS Participants to decide what a reasonable amount of time is, given their familiarity with their IP connections and the time-sensitivity of the emergency event in issue.

12. The Commission disagrees with Sage and other parties who argue that the minimum waiting period for CAP polling should be an option left to each EAS participant. As explained above, the Commission concludes that all EAS participants should be subject to the 10-second minimum time limit to ensure that the vast majority of CAP messages will be detected and used. However, by allowing EAS participants to poll after more than 10 seconds, the rule provides flexibility to address Sage's concern that a uniform, ''one-size-fits-all'' CAP polling and prioritization requirement would fail to account for unique factors affecting particular EAS Participants. The CAP prioritization mandate only sets the earliest time at which polling could occur and lets EAS Participants, based on their familiarity with their IP

transport links and other factors, adopt a longer CAP polling interval if that works best for their systems.

13. The 10-second minimum also accounts for the concerns that equipment manufacturer DAS raises in its comments opposing any minimum delay time. DAS contends that, in the version of CAP polling and prioritization it has already implemented, ''the polling [for] and processing [of CAP messages] . . . will not take longer'' than the time required ''to process the audio portion of a legacy EAS message that arrives first.'' The Commission's rule accommodates this situation; it does not preclude EAS Participants from sending out a CAP message before the matching legacy message is ready to be transmitted. Similarly, the rule does not compel EAS Participants to transmit the CAP version (if one is available) any later than it would have transmitted the legacy version. Thus, the basic requirement to poll for the CAP version of a received legacy alert with the timing adopted here will not materially delay or otherwise hamper the relay of the received legacy version to the public.

14. *Application of the CAP Priority Mandate.* The Commission's new rules requiring EAS Participants to poll for and prioritize CAP-formatted messages will apply to all EAS alert categories except for alerts with the Emergency Action Notification (EAN), National Periodic Test (NPT), or Required Weekly Test (RWT) event codes. As discussed below, with respect to these three codes, the Commission concludes that requiring CAP polling and prioritization would be counterproductive.

15. The Commission exclude National Emergency Messages using the EAN code (*i.e.,* Presidential alerts) because the expectation is that any Presidential alert announcing a national emergency would contain live audio, and the record confirms that IPAWS is not presently capable of reliably carrying live audio messages in CAP format in real time. Moreover, the EAS–CAP Industry Group (ECIG) Implementation Guide contains no technical guidelines that would support such live transmissions over IPAWS. Because IPAWS cannot currently support live streaming of a Presidential alert, the Commission concludes the CAP polling mandate should not apply to EAN messages at the present time.

16. With respect to national test messages issued using the NPT code, the Commission does not require CAP polling or prioritization because it would undermine the objectives of testing. In some instances, the national EAS test conducted by FEMA is limited to testing EAS in the legacy format, *i.e.,* the purpose of the test is to assess EAS's capacity to disseminate a legacy nationwide EAN alert. Because the Commission does not require EAS Participants to poll for a CAP version of an actual nationwide legacy EAN alert, there is no reason to require CAP polling when testing the system's capacity to transmit such an alert. Commenters concur that, for these reasons, requiring CAP polling of NPT alerts is unnecessary and potentially counterproductive. The same principle applies to instances where FEMA uses the NPT code to conduct a nationwide test of EAS in both legacy and CAP formats to compare the relative speed and propagation patterns for each format. In such instances, requiring EAS Participants to poll for and prioritize the CAP version of the message could skew the comparative test results by causing EAS Participants to rebroadcast (and further propagate over the daisy chain) the CAP version rather than the legacy version they received. Accordingly, the Commission declines to require CAP priority polling for the NPT at this time.

17. Finally, the Commission does not require polling for RWT alerts because they typically consist solely of tones, contain no audio or visual messages, and are used merely to ensure that the EAS equipment is functioning. Under these circumstances, the Commission agrees with commenters that there is no appreciable benefit to requiring CAP polling for RWT messages. With respect to the Required Monthly Test (RMT) alerts, however, the Commission agrees with commenting parties that the CAP polling requirement should apply. Because RMT alerts, unlike RWT alerts, are audible (and readable as visible text) to the general public, CAP polling and prioritization will enable the public to benefit from the superior quality of the text of CAP messages for those alerts.

18. The Commission declines to grant an exception from the CAP prioritization mandate for radio broadcasters, as advocated by NAB. NAB contends that ''there seems to be no reason to force radio stations to upgrade equipment or otherwise change their current practices'' since ''the entire [*Accessibility NPRM*] is framed in terms of enhancing the accessibility of EAS alerts for persons who are deaf or hard of hearing through the dissemination of more alerts with matching visual crawls and audio messages.'' The Commission disagrees. While the *Accessibility NPRM* emphasized matching of visual with audio messages, there are ample reasons why radio broadcasters, like video service EAS Participants, should be required to distribute CAP messages rather than legacy-formatted messages wherever possible. First, some digital radio broadcasters transmit visual alerts to digital radio receivers. Further, as discussed above, the audio generated from a CAP alert, whether from text-to-speech or from airing a CAP audio file, typically is superior in clarity and quality to that contained in a legacy alert. Use of text-to-speech has been standardized in EAS equipment and systems for over 12 years, and it is routinely used and supported today. Requiring radio broadcasters to prioritize CAP alerts over legacy alerts should result in optimizing the audio quality of the alert messages they broadcast, including rendering audio messages comprehensible that might otherwise be less intelligible had the legacy audio been broadcast instead. The Commission finds improving the audio quality of alerts to be an important public interest benefit, and the Commission therefore declines to exempt radio broadcasters from the CAP prioritization requirements adopted in this item.

19. Finally, the Commission concludes that it would not serve the public interest to require all EAS Participants to transmit both the legacy version of an alert message and a subsequently-acquired CAP message, as the Accessibility Coalition suggests. Such a requirement would result in the airing of duplicate alerts, which have historically been prohibited in the EAS rules because they can cause congestion in the alerting process, create public confusion, and cause additional preemption of programming that might cause broadcasters to abandon carriage of state and local alerts. In any case, the Commission expects the 10-second minimum polling requirement will be sufficient to capture any available CAP version of a received legacy alert in the vast majority of cases without causing significant delay in transmitting the alerts.

B. Revising the Alert Text for Certain National EAS Codes

20. Consistent with the proposals in the *NDAA NPRM* and the *Accessibility NPRM,* the Commission amends its rules prescribing the language to be used in audible and viewable messages generated from three national EAS alert codes: EAN (Emergency Action Notification), NPT (National Periodic Test), and PEP (Primary Entry Point). In each case, the Commission adopts simpler, more straightforward terms that will enable the public to understand the origin and purpose of these alerts more easily and, in particular, will enable

people who are deaf or hard of hearing to receive and comprehend the critical informational elements of the alerts. The revised text set forth below will be used in the messages displayed as text on the screens of viewers' devices. In addition, for alerts issued in CAP format with no audio message included, the EAS equipment will generate audio messages that include the revised text. The Commission also prescribes a scripted visual message that EAS Participants must display when FEMA conducts nationwide tests of the alert system in legacy EAS-only format. In conjunction with these changes, the Commission adopts certain conforming edits to the Commission's implementing rules. The Commission discusses these changes below.

21. The Commission revises the prescribed text associated with two event codes (EAN and NPT) and one originator code (PEP) listed in its rules. The Commission changes the text for the EAN event code from ''Emergency Action Notification'' to ''National Emergency Message,'' changes the text for the NPT event code from ''National Periodic Test'' to ''Nationwide Test of the Emergency Alert System,'' and changes the text for the PEP originator code from ''Primary Entry Code System'' to ''United States Government.'' The Commission agrees with the Accessibility Coalition that these changes to the alert text displayed to the public for these three codes will make the EAS more accessible to people who are deaf or hard of hearing. The Commission also agrees with FEMA, NWS, and many other commenters that these changes will make these national alerts easier for all members of the public to understand and will more effectively inform people of emergency situations. For consistency, the Commission also revises its rules to use the term ''National Emergency Messages'' instead of ''Emergency Action Notification'' wherever that term appears.

22. The improvements brought about by these text changes are evident when comparing the alert header seen or heard by the public under the preexisting rules and under the Commission's new rules. Under the preexisting rules, an alert using the PEP and EAN codes would read, in relevant part, ''The Primary Entry Point system has issued an Emergency Action Notification. . . .'' The new version of this alert will read, ''The United States Government has issued a National Emergency Message. . . .'' Similarly, for nationwide test alert messages initiated by FEMA in CAP format, the existing header text reads ''the Primary Entry Point system has issued a Nationwide Periodic Test.'' Under the Commission's new rules, the header text will read ''the United States Government has issued a Nationwide Test of the Emergency Alert System. . . .''

23. The Commission finds that these changes will result in clearer and more comprehensible alert messages. The Commission agrees with the Accessibility Coalition that displaying clearer text for alerts will make these messages more accessible to people who are deaf or hard of hearing. NCTA also asserts, and NWS, NAB, DAS, and Sage agree, that such changes ''will provide the public with clearer, more uniform, and more readily understandable information. . . .'' The Commission concludes that changing the visual displays of alerts and related updates to improve clarity will mitigate the risk of reduced public response to emergency messages that the public misunderstands. The Commission also finds that clearer description of NPT test alerts will ''minimize the potential for consumer confusion and alerting fatigue'' and is therefore in the public interest,'' even though the NPT is not warning the public of danger. Further, the Commission agrees with the Accessibility Coalition that clarifying visual alert displays will improve accessibility of the EAS for people with hearing-related disabilities. These changes will benefit the public by reducing confusion about what alert messages are communicating in times of emergency and ''clarif[ying] the critical informational elements included in nationwide EAS tests, particularly for members of the public that cannot access the audio message.''

24. There is also ample justification for the specific wording of the new labels that the Commission is selecting for the EAN, PEP, and NPT codes. The Commission agrees with FEMA that ''National Emergency Message'' is a clearer and more accurate label for EAS alerts using the EAN code than ''Emergency Action Notification,'' which ''has no meaning or significance to the public and may create confusion, delaying the public taking protective actions to mitigate the impact of the impending emergency event.''

25. Similarly, labeling alerts that use the PEP code as originated by the ''Primary Entry Point system'' is opaque to the general public and fails to provide any meaningful information about who originated the alert. In the *NDAA NPRM,* the Commission proposed to replace ''Primary Entry Point system'' with the term ''National Authority.'' However, the Commission concludes that the term ''United States Government'' more clearly communicates the source of such alerts than ''National Authority,'' and the Commission therefore adopts ''United States Government'' as the label for alerts using the PEP code.

26. The Commission also finds that changing the NPT alert text from ''National Periodic Test'' to ''Nationwide Test of the Emergency Alert System,'' as well as the NPT legacy script change discussed below, will make it clearer to the public that these alerts are only tests. This will eliminate confusion and will increase the public's overall trust in the alerting system, making it more likely that all members of the public will heed alert warnings and follow alert instructions in the future.

27. The Commission declines to adopt any other changes to alert code descriptions or scripts beyond those adopted today. The Commission agrees with NWS that other alert code descriptions received by the public are already sufficiently clear and convey the nature of the alert in a concise and easily understandable way. The Commission also declines suggestions to establish a new regional test code and require EAS Participants to display the word ''regional'' instead of ''national'' or ''nationwide'' when FEMA geotargets a test alert. The Commission finds that no confusion will result from using the term ''national'' or ''nationwide'' even if a regional test alert is sent, since NPT alerts are test messages that contain no emergency instructions to the public. In addition, the infrequency of regional NPT tests further persuades us that creating a separate new code for regional test alerts is unnecessary.

28. In the *NDAA NPRM,* the Commission proposed to change the three-letter EAN and PEP codes to match the proposed new text labels for these codes. On review of the record, however, the Commission sees no need to change any of the existing three-letter codes. Unlike the text labels that are seen by the public, the three-letter codes are entirely functional and the public never sees or hears them. These codes are automated computer language that are received and processed with no human involvement. Even EAS Participants would rarely see them, if ever, once the text change for a code is programmed into EAS equipment with a one-time update. The only time any employee of an EAS Participant would see the codes is if a station engineer were present on site and looking at the EAS screen at the moment an alert was received. The Commission also finds that no confusion will result from using

codes that are not acronyms for the displayed text. This has long been the case for other codes currently in use without incident, like the ''WXR'' code for ''National Weather Service.'' Thus, there is no risk of public confusion from retaining the existing codes. In addition, as several commenters point out, changing these three-letter codes could be costly to implement and might create a risk of alert failure, which could seriously jeopardize public safety. NWS contends that changes to the existing three-letter alert codes might cause NOAA Weather Radios to display inaccurate or partial visual messages on radio display screens. No commenter supported changing the three-letter codes or identified any benefit to the public, EAS Participants, or alert originators of doing so. The Commission concludes that changing only the text for these alert codes without modifying the codes themselves will fully achieve its public interest objective of more comprehensible alerts, while avoiding unnecessary costs or risks.

29. *Standard Script Displayed for Nationwide Test Alerts in Legacy EAS Format.* The Commission adopts its proposal, discussed in the *Accessibility NPRM,* to modify the text display used in the visual crawl for EAS-based nationwide test alerts transmitted in legacy format. Specifically, when a legacy nationwide test alert is generated from the PEP and NPT header codes and uses the ''All-U.S.'' geographic location code, the Commission requires video service EAS Participants to display the following scripted text: ''This is a nationwide test of the Emergency Alert System, issued by the Federal Emergency Management Agency, covering the United States from [time] until [time]. This is only a test. No action is required by the public.'' This new text will be much easier to understand than the text displayed for such test alerts under the current rules (''the Primary Entry Point system has issued a National Periodic Test . . .''). The Commission notes that the revised text will be displayed only when FEMA issues a nationwide test alert in legacy EAS format and therefore cannot use the enhanced text capabilities of CAP to explain the alert visually in greater detail. It is unnecessary to prescribe such a script for test alerts that FEMA issues in CAP format, since FEMA can add explanatory text to CAP-formatted messages and ensure that the audio message matches the visual crawl generated for the alert.

30. The Commission disagrees with Sage's and Timm's arguments that addition of a script is a departure from processing of actual EAN alerts that would render the testing process less effective. As the Commission has long acknowledged, the technical parameters of NPT test alerts need not be identical to those of EAN alerts announcing actual national emergencies to generate an effective test, especially if a slight difference will make the test alert message are more comprehensible and accessible, including to people who are deaf or hard of hearing. In this instance, a slight deviation between the use of a scripted message for legacy NPT test messages and the visual crawl that would be generated for an actual EAN alert will not significantly diminish the NPT's usefulness. The Commission agrees with Sage, however, that there is no need to prohibit translations, and therefore clarifies that EAS equipment manufacturers may translate the NPT script adopted today into additional languages, as some currently do for alert code text descriptions.

31. The Commission also requires radio broadcasters to change the text for the NPT event code from ''National Periodic Test'' to ''Nationwide Test of the Emergency Alert System.'' The Commission disagrees with NAB's contention that ''it seems inappropriate to impose the same obligation [to implement the new NPT text and NPT script] on audio-only EAS Participants, at least on the same terms as video service providers, as they do not contribute to the visual accessibility of EAS messages.'' The Commission also disagrees with NAB's suggestion that the only ''purpose of the CAP related obligation is to promote the ability of EAS alerting to provide matching visual and audio messages, to increase the clarity of alerts for persons who are deaf and hard of hearing.'' While these are central reasons why we are adopting these requirements, they are not the only factors justifying these rule changes, as discussed above. For example, some digital radio broadcasters display visual alerts on the screens of digital radio receivers. Moreover, it is important for radio broadcasters' NPT alerts to refer to ''Nationwide Test of the Emergency Alert System'' in instances when CAP-format text messages do not include any audio content and the audio alerts must be generated based on the CAP message header using text-to-speech functionality. Otherwise, if FEMA were to send an NPT alert in CAP format consisting exclusively of text without any audio component, or if a distribution failure resulted in a radio broadcaster receiving only the text but not the audio portion of the alert, a radio broadcaster that had not implemented the new NPT text would air the outdated ''National Periodic Test'' language that the Commission has found to be confusing to the public.

32. While the Commission requires radio broadcasters to implement the new NPT header code text, it declines to require them to update their devices to accommodate the new prescribed script for legacy-format NPT messages. The Commission concludes that imposing such a requirement on radio broadcasters would yield only minimal benefits, because the prescribed NPT script is to be used only in visual displays and would not affect audio messages. Although a few radio broadcasters might be able to display the new prescribed script on digital radio receiver screens, they would display the clearer NPT label that the Commission adopts today (''Nationwide Test of the Emergency Alert Message'') even if they were not required to display the more detailed NPT script; and imposing that requirement on the large majority of radio broadcasters would have no impact on alert clarity. Radio broadcasters are free to implement this updated script voluntarily, however, and the Commission encourages them to do so if it will improve digital radio visual displays, or for the sake of consistency across deployed EAS decoder devices.

33. *Eliminating National Information Center (NIC) Code.* As the Commission proposed in the *NDAA FNPRM,* the Commission is deleting the National Information Center (NIC) event code because the federal National Information Center no longer exists, and there is thus no reason to maintain this event code in the rules. Most commenting parties agree. Deleting the NIC code will avoid confusion by preventing any accidental activation of this obsolete alert and will avert the risk of rogue alerts that might be caused by unauthorized parties' intentional misuse of the NIC code. Since deletion of the NIC code can be implemented by a simple software change that requires only an update to EAS encoders, the Commission requires EAS Participants to implement this change in the same timeframe as the other EAS encoder device changes adopted in this order. This should entail negligible costs since EAS Participants can implement all required encoder updates in a single package update. The Commission also directs SECCs to remove this code from state EAS plans and advises FEMA to remove NIC from its list of codes that can be accepted from alert originators and issued via IPAWS.

34. The Commission rejects Sage's alternative proposals for preventing

issuance of NIC-coded alerts without deleting the NIC code, such as directing parties to ignore the code and asking FEMA and alert originators not to use it. These approaches would be more complicated to implement than simply deleting the NIC code, and they would be far less effective at preventing potential misuse of a code that is otherwise obsolete and unnecessary. The Commission also rejects Donelan's suggestion that the NIC code be retained and repurposed. The Commission cannot do this except in concert with FEMA, which has asked to delete the code.

35. *Conforming Changes to Implementing Rules.* Finally, to avoid potential confusion stemming from associating the PEP originator code with the term ''United States Government,'' the Commission is replacing the term ''Primary Entry Point System'' in the rules with the term ''National Public Warning System.'' The Commission notes that FEMA has ceased using ''Primary Entry Point System'' and has replaced it with the term ''National Public Warning System'' (NPWS), and the Commission finds that aligning its terminology with FEMA's is in the public interest. While the Commission did not specifically propose or mention this rule change in the *NDAA NPRM* or the *Accessibility NPRM,* the Commission believes it is a logical outgrowth of the proposal to change the text associated with the PEP originator code. Furthermore, to the extent necessary, the Commission invokes the exception in the Administrative Procedure Act that allows agencies to proceed without notice and comment to revise rules where notice and comment is unnecessary. Here, the Commission believes initiating another notice and comment proceeding to address this non-substantive conforming rule change is unnecessary and that adopting it without further notice and comment is in the public interest, because the change in terminology used to refer to certain entities in the Commission's rules will have no impact on any party's rights or obligations. The Commission also makes minor edits to Part 11 to update the contact information for the National Archives and Records Administration. These updates to NARA's contact information do not alter the substance of parties' obligations, but merely the procedures they follow to obtain required standards from NARA, and the Commission thus views them as procedural rule changes for which notice and comment is not required. To the extent that these rules were instead seen as something other than procedural rules, the Commission independently finds good cause to forgo notice and comment as an alternative basis for its decision. The Commission finds notice and comment unnecessary because regulated entities' rights and obligations are not being altered.

C. Compliance Time Frame

36. The Commission requires all EAS Participants to comply with the rules adopted in this order no later than one year from the effective date of the order (subject to the exceptions discussed below). The Commission agrees with commenting parties that all rule changes requiring software updates to EAS encoder equipment can be accomplished on a one-year schedule. Equipment suppliers DAS and Sage indicate that changes such as the revised EAN code text and removal of the NIC event code ''can be accomplished via software updates'' to EAS equipment in tandem with ''regularly scheduled maintenance activities'' involving minimal cost and effort on the part of EAS manufacturers and participants and that ''[t]he normal estimate of a year would apply.'' These parties support the same implementation period for the new CAP polling and prioritization requirements: DAS says it has already installed ''a feature called Triggered CAP Polling™'' on EAS devices and ''made [it] available on every software update since 2018, while Sage states the feature ''can be implemented by Sage and installed by users over a one-year period.'' This one-year implementation period is consistent with past orders requiring EAS encoder software updates. This deadline applies to all EAS participants, including radio broadcasters.

37. REC Networks requests that the CAP polling implementation deadline be extended to three years for analog radio broadcasters, contending that ''[t]here are many smaller broadcast stations, including LPFM stations, smaller noncommercial educational (NCE) stations as well as small 'mom and pop' and other standalone commercial broadcasters, including those owned or controlled by minority groups[,] that do not have the budget or resources to implement CAP Polling within the proposed mandated one-year time frame.'' The Commission declines to do so. REC cites vendor costs of less than $500 for the necessary software changes, and does not provide any evidence to suggest that this would be a financial hardship for small broadcasters, much less all analog broadcasters. Any individual entity may seek a waiver if it can demonstrate that ''special circumstances'' justify deviation from the generally applicable requirement. The Commission notes that REC Networks generally disagrees with its decision to apply the CAP polling and prioritization requirements to analog radio broadcast stations, as discussed above. Those general policy objections do not justify a special carve-out from the generally applicable compliance timeframe for an entire industry segment.

38. The Commission disagrees with NCTA's and ACA's argument that cable operators would need at least two years to conduct the downstream equipment testing and modifications needed to implement timed CAP polling and the changes to the PEP and NPT code texts and the NPT script. The EAS changes the Commission adopts in this Order are substantially similar to the NPT and national location code rule changes the Commission adopted in 2015, when NCTA agreed that one year was enough time for even a complex downstream equipment testing process. Neither NCTA nor ACA explains why the downstream equipment testing and modification process would take longer now than it did in the past. The Commission finds that one year is sufficient time (except in the circumstances described below) for all EAS Participants to implement the changes that the Commission deems necessary to improve public safety by making alerts more comprehensible and accessible, as promptly as practicable.

39. The Commission recognizes, however, that it may take more than one year for cable operators to implement the required change to the EAN text. Cable industry commenters note that the text associated with EAN-coded alerts (unlike text associated with other alert codes) is sometimes hard-wired into ''downstream'' equipment in cable operators' networks, including set-top boxes that are controlled by the cable operator and installed at customers' premises. Thus, while cable operators can implement software upgrades in their EAS encoder/decoder equipment to transmit the new text for the EAN code, many downstream set-top boxes cannot be similarly reprogrammed through software modifications alone (a problem that is especially acute for some older, discontinued models for which manufacturers no longer provide software support). As a result, implementing the new EAN text will require these set-top boxes to be replaced. Moreover, NCTA argues persuasively that wide-scale hardware replacement at customers' premises on a short timeframe would entail excessively high costs.

40. Specifically, the Commission grants cable operators six years from the effective date of today's order to complete the transition to the new EAN text display of ''National Emergency Message'' to the extent that the change requires replacement of navigation equipment (*i.e.,* set-top boxes) that cannot be safely updated via software upgrades alone, and 15 months from the effective date of the order in other instances where implementing the EAN text change require upgraded software on set-top boxes and headend equipment used to control set-top boxes. The Commission finds these longer compliance time frames for implementing the EAN change in this limited context to be justified, due to the risk that improperly programmed equipment might fail to transmit EAN alerts properly, the need for testing such software changes to assure a smooth and effective rollout, and the excessive costs that immediate replacement of such equipment would impose. Similarly, to the extent such changes require replacement of set-top boxes or other navigation equipment at customer premises, the Commission finds that it would not be in the public interest to require replacement of all such equipment in cable networks with the EAN text change within one year. A six-year implementation period will avoid rushed compliance efforts without testing and verifying the proper functionality of such equipment, and will enable cable operators to gradually replace outdated set-top boxes to the extent necessary on a schedule closer to the average lifecycle of this equipment, resulting in costs that would not substantially exceed those they would incur in the ordinary course of business.

41. The Commission's compliance timeline of six years is based on estimates of the average life span for replacement of cable set-top-boxes and similar devices that cable industry representatives have submitted to government agencies in the past. For example, NCTA represented in 2017 that the average set-top box lifespan is five to seven years and that the average deployment cycle for set-top boxes is six years. NCTA more recently stated that ''its members estimate that set top boxes have ''a lifecycle of roughly 10+ years,'' but it has clarified that this estimate applies only to ''newer set-top boxes [that] are designed to have longer lifespans,'' not to *all* deployed set-top boxes. The six-year replacement timeline the Commission establishes today primarily applies to older legacy set-top boxes that cannot be updated via software changes. Therefore, it is appropriate to rely on the earlier estimates for purposes of establishing this timeline. Finally, the Commission does not adopt ACA Connects' proposal to exempt small cable operators from the set-top box replacement requirement or to extend the six-year timeline to ten years. While ACA Connects asserts that the requirement would be burdensome to small operators, it provides no evidence to support this assertion. ACA Connects states that ''the cable video business has become increasingly challenging in recent years, especially for the smallest operators,'' and argues that a mandate to replace set-top boxes ''could prove highly burdensome for some operators and even encourage exit from the cable video business,'' However, ACA Connects provides no cost data or other evidence that would support a blanket exemption for all small operators. To the extent that individual cable operators can demonstrate unique hardship or other special circumstances, they may seek a waiver pursuant to the Commission's rules.

42. NCTA asserts that even where set-top boxes need not be replaced, implementing the EAN text change may require upgraded software on set-top boxes and headend equipment used to control set-top boxes, and it argues that the Commission should allow 18 months for all required software upgrades, including the upgrades to implement the new labels for the NPT and PEP codes. The Commission declines to do so. The Commission will allow cable operators additional time to comply with the required change to the text associated with the EAN code only, but finds that 15 months is more than adequate to account for these software-related complexities, including any unexpected difficulties. The additional time the Commission is allowing for cable operators to implement the EAN text change, as discussed above, is justified by the potentially more complex activities necessary to reprogram or replace some set-top boxes and set-top box controller equipment at cable headends. No such activities are needed to implement the other changes adopted in this order, such as the CAP polling and prioritization requirements or the new labels for the NPT and PEP codes. The Commission also is not persuaded by NCTA's argument that establishing identical deadlines for all of these changes is needed to reduce the risk of complications or disruption to consumers. Like other EAS Participants, cable operators can implement changes other than the EAN change by relatively simple software upgrades on EAS encoder/decoder equipment that do not involve modifying software in set-top boxes or related equipment in cable headends and are not disruptive to the end user.

43. The Commission emphasizes that cable operators must implement any necessary EAN software modifications to their upstream EAS decoder equipment by the generally applicable one-year deadline. This will enable at least those subscribers with updated or newly replaced set-top boxes to see the new ''National Emergency Message'' text for EAN code alerts as soon as reasonably possible. To ensure that cable operators continue to successfully deliver alerts that use the EAN event code to their subscribers as the rules currently mandate, the Commission also requires these software updates to be implemented in such a way that, for the interim period of time prior to the date six years after the effective date of this Order, any set-top box that cannot receive a software update will still process the EAN and will continue to display the old ''Emergency Action Notification'' text upon receiving the EAN. Commenting parties confirm that a change to the EAN text only (as opposed to a change to the three-letter EAN code) will allow non-updated downstream processing equipment to continue to display alert messages.

44. To ensure that people with disabilities are supported during the interim equipment replacement period, the Commission further require that if a cable operator supplies or leases set-top boxes or similar navigation devices to its customers that cannot be updated to display the new text for EAN messages, the operator must, upon the request of any customer who is deaf or hard of hearing, replace that device with a new device capable of displaying the new EAN visual text. The cable operator must supply and, if necessary, install such a device within a reasonable time after receiving such a request, on the same terms and to the same extent as provided in 47 CFR 79.108. This rule, adopted as part of the Commission's implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), involved a nearly identical weighing of equities requiring cable operators to provide compliant set-top boxes to subscribers with disabilities upon request and within a reasonable time to ensure accessibility without unduly burdening cable operators, and is therefore an appropriate standard here. The Commission agrees with DeafLink that increased EAS accessibility for people who are deaf or hard of hearing is long overdue, and ''[t]he Deaf

community has long awaited an accessible solution . . .'' While the Commission is granting cable operators a six-year compliance window to avoid imposing excessive short-term costs, this does not excuse them from their obligation to promptly meet the needs of people who are deaf or hard of hearing for clear visual alerts. Moreover, since cable operators will need to implement equipment replacement plans to ensure that all set-top boxes on their networks can display the new EAN text by the end of the six-year period, the Commission believe it is reasonable to require that such plans include a mechanism to supply compliant set-top boxes at an earlier date to people who are deaf or hard of hearing who request them. To ensure that individuals with hearing disabilities can benefit from earlier access to new or updated set-top boxes, the Commission also requires cable operators to post information on the availability of such devices on their official websites as soon as new or updated devices are available for distribution to customers and explain the means for making requests for such equipment, in the same manner as by rule 79.108(d)(2). While the Commission did not explicitly seek comment on such proposed requirements, the Commission finds that these requirements are a logical outgrowth of the proposal in the *NDAA FNPRM* to revise the text of the EAN alert (if not the three letter code itself), in tandem with the cable industry's comments regarding the difficulty and time-consumer nature of doing so, as well the existing requirements that cable providers provide notice on their official websites about the availability of accessible navigation devices.

45. Finally, with respect to cable-card devices and smart TVs that are not controlled by cable operators, the Commission encourages those third-party manufacturers to update their deployed devices to reflect the new EAN text where possible, and to ensure future manufactured models reflect the new EAN text. Cable operators are required to transmit the EAN message to their subscribers, and should therefore take appropriate steps to minimize the risk that updates to their own facilities will trigger a downstream failure in existing third-party customer premise devices.

D. Persistent Alerts

46. In the *NDAA FNPRM,* the Commission discussed a proposal, originally suggested by FEMA, to update legacy EAS to facilitate ''persistent alerts''—that is, to enable alerts concerning ''emergencies that require immediate public protective actions to mitigate loss of life'' to ''persist on EAS until the alert time has expired or is cancelled by the alert originator.'' After review of the record, the Commission declines to take further action on this proposal at this time. The Commission is not persuaded that implementing this proposal in legacy EAS would be technically feasible, and it takes note of the virtually unanimous opposition to the proposal by commenting parties, including alert originators, SECCs, EAS Participants, and equipment manufacturers. As one commenter notes, legacy EAS does not enable alert originators to retract or alter an alert once they issue it, and the Commission is troubled by the possibility that a persistent alert could become outdated or even counter-productive if conditions change as emergency responders address an incident. For example, a persistent alert in legacy EAS would likely block out all subsequent alerts (except an EAN or NPT) until the valid time period for the original alert expired. During that time, the audio portion of the EAS alert would continuously play, which would drown out the audio of regular programming as well as any emergency news programming that might provide updated information related to the emergency condition not covered in the original EAS alert audio message. Similarly, the original visual message would continuously scroll until the time period for the alert expired, thus blocking the display of potential updated information that the EAS Participant might be attempting to broadcast.

47. While the Commission recognizes that persistent alerts could be feasible and potentially beneficial in a different aging system architecture, it does not see how those benefits could be realized in legacy EAS's architecture, which is designed to provide brief warnings to the public. Moreover, legacy EAS already provides a mechanism for repeatedly reminding the public of an impending emergency: alert originators can repeat their alerts if they determine that such action is warranted. Based on these considerations, the Commission is not adopting any new rules or policies to facilitate persistent alert messages in legacy EAS at this time.

E. Benefit-Cost Analysis

48. *Benefits.* As discussed above, the Commission finds that today's rule changes will result in substantial public interest benefits. Specifically, the rule changes the Commission is adopting reduce confusion and make alerts easier to understand, making recipients more likely to trust alerts and respond to them, and will yield particular benefits by improving access to alert information for people with disabilities. The CAP polling rule change will lead to increased dissemination of CAP-formatted alerts, which provide more detailed alert information than legacy alerts to recipients, including better instructions on protective measures that the public should take. Similarly, the Commission's new rules requiring clearer identification of the purposes and origin of alerts increase the likelihood that the public will pay attention to them. Eliminating confusion and building trust in EAS makes it more likely that the public will follow alert instructions in the future. The public's increased understanding and trust in alerts improves public safety outcomes by saving lives and better protecting property.

49. While it is difficult to quantify the precise dollar value of improvements to the public's safety, life, and health, the Commission nonetheless concludes that very substantial public safety benefits will result from the rules it adopts today. EAS alerts that convey more complete information and are easier to understand by the general public, especially those with hearing and vision disabilities, will enable more listeners and viewers to respond to emergency situations by taking appropriate protective actions, such as evacuating or sheltering-in-place, depending on the nature of the emergency. As a consequence, the Commission anticipates that the rule changes it adopts today will yield substantial life-saving benefits in the event of such emergencies. As discussed above, the Commission agrees with commenting parties that the CAP polling and prioritization requirement will result in greater display of alerts with clearer and more informative visual text to better inform the public, and that changing the text of certain alert codes will improve the visual displays of alert messages. The value of improved public safety in reducing the risk of avoidable deaths and injuries by better informing the public of pending emergencies is substantial. While the Commission cannot estimate the precise incremental dollar value of these changes, improvements to the EAS that increase accessibility, enable people to access and understand alerts more easily and respond more quickly, and increase overall confidence in the EAS will produce large benefits to preservation of life and property. The Commission notes that some agencies estimate the benefits of preservation of life and

property by considering the value of reduced mortality risk. If the Commission were to estimate that the rule changes it adopts today would reduce mortality risk sufficiently as to lead to an expected reduction of one life lost per year—an expectation the Commission finds reasonable and conservative here—the benefits of that risk reduction would be worth $59 million over the first five years after the rules take effect (*i.e.,* 5 × $11.8 million).

50. *Costs.* The measures adopted today are the most cost-effective ways to achieve the benefits of making EAS more comprehensible, and therefore more effective, as described above. By declining to adopt proposals to change the PEP code to NAT or the EAN code to NEM, the Commission avoids imposing additional and potentially excessive costs that its new requirements could have imposed on industry. By allowing six years for complete cable system EAN text change compliance, the Commission avoids imposing excessive costs on the cable industry that would have resulted from a shorter compliance timeframe. By exempting radio broadcasters from the legacy NPT script change, the Commission is reducing the extent of decoder software updates made outside of the normal course of planned upgrades. Yet, because the Commission is allowing sufficient time and flexibility to allow EAS Participants to make upgrades in tandem with general software upgrades installed during the regular course of business, the cost of the software changes needed due to the requirements adopted today will not significantly exceed the costs of software updates that most EAS Participants would need to implement whether or not these rule changes are adopted. Accordingly, most EAS Participants will avoid this cost.

51. In the *NDAA FNPRM* and the *Accessibility NPRM,* the Commission asked for cost estimate submissions from parties subject to today's decision. No party did so. The Commission believes, however, that the cost of implementing the EAS decoder equipment changes adopted in this order will be roughly in line with the cost of changes adopted in the 2016 *Weather Alerts Order* and the 2017 *Blue Alerts Order,* which similarly entailed few costs beyond the reprogramming of EAS decoder equipment. In the *Blue Alerts Order,* for example, the Commission concluded that the only cost to EAS Participants for installing the new EAS software is the labor cost involved in downloading the software patches into their devices and associated clerical work. The Commission follows the procedure of estimating the labor costs of updating software used in the *Weather Alerts Order* and the *Blue Alerts Order.*

52. To form an upper bound of the cost, the Commission assumes that the software update takes 5 hours, which it expects is substantially longer than the average time a software update would take. The Office of Management and Budget approved an estimate of $25 per hour of labor cost for an EAS Participant to fill out the Commission online report form for EAS National Tests in 2011. The Commission finds that the real labor cost of software updates to implement all of today's changes would be similar and adjusts the labor cost upward to $35 to reflect inflation since 2011. Each device update would then entail $175 of labor cost, and with 28,555 estimated broadcasters and cable headends to update, this implies a total cost of approximately $5 million. The figure 28,555 is comprised of the sum of 21,149 broadcast stations and 7,136 cable headends.

53. Indeed, the Commission finds that the software updating cost is likely to be well below $5 million because, as noted above, most EAS Participants will have sufficient time to avoid this labor cost by downloading the required software changes together with their general software upgrades. The Commission therefore estimates the cost of all decoder software updates most of which can be bundled with ''normally scheduled software releases'' and performed at the same time, will not exceed a total one-time cost of approximately $5 million for all EAS participants.

54. According to cable industry commenters, four of the six changes (CAP polling, EAN text, NPT text, and NPT script) also require significant testing in cable operators' networks. As to those testing costs for the cable industry, the Commission believes that industry will realize substantial cost savings from conducting coordinated testing for all of these changes and can do so on the same one-year schedule in tandem with other annual testing. The Commission expects that this will result in additional testing cost that, together with the software downloads, will not cause total costs to exceed the $5 million cost ceiling discussed above. As to the added equipment costs in the cable industry, the Commission expects that cost to be minimal. The six-year timeframe it is allowing for the replacement of set-top boxes will enable operators in most cases to install new equipment in consumers' premises in the ordinary course of business. The Commission estimates that the additional amount that cable operators will incur for replacing set-top boxes to implement the new EAN requirement over the six-year period will not exceed $4.4 million as a cost ceiling.

55. *Comparison of Costs and Benefits.* The Commission concludes that the life-saving benefits to the public of increased comprehensibility and accessibility of emergency information from the actions adopted in this Order will far outweigh the implementation costs imposed on EAS participants. Without attempting to quantify the precise dollar value of improvements to the public's safety, life, and health, the Commission observes that the value of the benefits of each of today's six changes would only have to exceed the worst-case estimated implementation costs to outweigh the cost of compliance. In light of the record reflecting substantial public safety improvements from today's changes, the Commission finds that the changes will have a value that greatly exceeds the $9.4 million overall cost ceiling for implementing these six changes. Based on the record, the Commission further finds that each change has a value that exceeds its incremental implementation cost.

Initial Regulatory Flexibility Analysis

56. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice of Proposed Rulemaking released in June 2021, and the Notice of Proposed Rulemaking released in December 2021 (*Notices*). The Commission sought written public comment on the proposals in the *Notices,* including comment on the IRFAs. The two comments were filed addressing the IRFAs are discussed below in Section B. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Final Rules

57. In today's Report and Order (*Order*), the Commission adopts rules to improve the comprehensibility and accessibility of emergency alerts the public receives via broadcast, cable, and satellite radio and television via the Emergency Alert System (EAS). The EAS ensures that the public is quickly informed about emergency alerts issued by federal, state, local, Tribal, and territorial governments and delivered over radio and television. These announcements keep the public safe and informed and have increased in importance in the wake of the emergencies and disasters experienced

by Americans in the past few years. The Commission has determined that these EAS rule changes are necessary to improve the comprehensibility and accessibility of EAS alerts, and to ensure equal accessibility to emergency alert information for people with hearing disabilities. Consistent with the congressional directives in the Communications Act, the Commission amends its rules to ensure that more people will receive better emergency alert information from the EAS.

58. Specifically, the Commission requires EAS Participants, upon receiving an alert in legacy format, to poll the Federal Emergency Management Agency's (FEMA) Integrated Public Alert Warning System (IPAWS) for a version of the alert in the Common Alerting Protocol (CAP) and, if available, to distribute the CAP version of the alert instead. The Commission also amends its rules to change the visual text displayed to the public for three alert codes: the Emergency Action Notification (EAN), the Primary Entry Point system (PEP), and the National Periodic Test (NPT), and to add a fourth new visual display for when the NPT is sent in legacy-only format. Finally, the Commission removes the outdated National Information Center (NIC) code from the EAS.

59. The rules adopted in the *Order* are intended to improve the clarity and comprehensibility of visual alert information for all Americans, and to ensure alerts are accessible to people who are deaf or hard of hearing. They will benefit the public by improving the quality of emergency information received, and they will ensure that the superior visual ''enhanced text'' capabilities of CAP alerts are more frequently distributed to the public. These actions will have the result of minimizing confusion and disruption caused by confusing visual alerts, will increase the public's trust in the EAS system, will promote accessibility to emergency information for people who are deaf or hard of hearing, and therefore will improve the system for distributing vital alert information for all Americans.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

60. Brett Silverman and Jack Underhill filed comments that specifically addressed the analysis presented in the IRFAs. Silverman states that the Commission's 2012 order requiring all EAS Participants to make significant upgrades to their EAS equipment to support CAP alerting ''means that many of the smaller business entities have already paid to update their EAS systems,'' and therefore the proposed rules ''will not put a significant effect on smaller broadcast companies who it may have been a burden for.'' Underhill states that the Commission should minimize costs for small entity broadcasters by ''grant[ing] governmental subsidies to fund the software upgrades,'' or by ''providing a general subsidy for organizations to fund any kind of equipment.''

61. The Commission agrees with Silverman's assessment that the rules the Commission adopts today are, in large part, extensions of the equipment upgrades for the transition to CAP alerting which began in 2012, and therefore the costs will not significantly impact small entities. With respect to Underhill's comments, the Commission does not currently have a statutory funding mechanism in place to make grants to smaller broadcasters for the purpose of seeking to comply with the Commission's EAS rules or as a general fund. The Commission encourages small entities needing funds to seek grants that may be available from other funding sources, including the U.S. Department of Commerce's National Telecommunications and Information Administration or the Corporation for Public Broadcasting.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

62. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

63. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

64. The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the rules, adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

65. Small entities are among the current EAS Participants which include 17,521 radio broadcasters and 8,133 other participants, including television broadcasters, cable operators, satellite operators, and other businesses in the industry segments discussed below, that are impacted by the changes adopted in today's *Order.*

66. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's actions may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 32.5 million businesses.

67. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

68. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment of less than 50,000. Accordingly, based on the 2017 U.S.

Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

69. *Radio Stations.* This industry is comprised of ''establishments primarily engaged in broadcasting aural programs by radio to the public.'' Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having $41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than $25 million per year. Based on this data and the SBA's small business size standard, the Commission estimates a majority of such entities are small entities.

70. The Commission estimates that as of March 31, 2022, there were 4,508 licensed commercial AM radio stations and 6,763 licensed commercial FM radio stations, for a combined total of 11,271 commercial radio stations. Of this total, 11,269 stations (or 99.98%) had revenues of $41.5 million or less in 2021, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on June 1, 2022, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of March 2022, there were 4,119 licensed noncommercial (NCE) FM radio stations, 2,049 low power FM (LPFM) stations, and 8,919 FM translators and boosters. The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

71. The Commission notes, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by the Commission's action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

72. *FM Translator Stations and Low Power FM Stations.* FM translators and Low Power FM Stations are classified in the industry for Radio Stations. The Radio Stations industry comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having $41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated during that year. Of that number, 1,879 firms operated with revenue of less than $25 million per year. Therefore, based on the SBA's size standard the Commission concludes that the majority of FM Translator stations and Low Power FM Stations are small. Additionally, according to Commission data, as of March 31, 2022, there were 8,919 FM Translator Stations and 2,049 Low Power FM licensed broadcast stations. The Commission however does not compile and otherwise does not have access to information on the revenue of these stations that would permit it to determine how many of the stations would qualify as small entities. For purposes of this regulatory flexibility analysis, the Commission presumes the majority of these stations are small entities.

73. *Television Broadcasting.* This industry is comprised of ''establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having $41.5 million or less in annual receipts as small. 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than $25,000,000. Based on this data the Commission estimates that the majority of television broadcasters are small entities under the SBA small business size standard.

74. The Commission estimates that as of March 31, 2022, there were 1,373 licensed commercial television stations. Of this total, 1,280 stations (or 93.2%) had revenues of $41.5 million or less in 2021, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on June 1, 2022, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 31, 2022, there were 384 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,840 LPTV stations and 3,231 TV translator stations. The Commission however does not compile, and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of television station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

75. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA small business size standard for this industry classifies firms with annual receipts less than $41.5 million

as small. Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year. Of that number, 149 firms operated with revenue of less than $25 million a year and 44 firms operated with revenue of $25 million or more. Based on this data, the Commission estimates that a majority of firms in this industry are small.

76. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, contains a size standard for small cable system operators, which classifies ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000,'' as small. For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice. Based on industry data, only six cable system operators have more than 677,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. The Commission notes however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

77. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Based on industry data, there are about 420 cable companies in the U.S. Of these, only seven have more than 400,000 subscribers. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Based on industry data, there are about 4,139 cable systems (headends) in the U.S. Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable operators are small.

78. *Satellite Telecommunications.* This industry comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $35 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than $25 million. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently using the SBA's small business size standard, a little more than 80 percent of these providers can be considered small entities.

79. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.,* dial-up ISPs) or voice over internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

80. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). Wireless cable operators that use spectrum in the BRS often supplemented with leased channels from the EBS, provide a competitive alternative to wired cable and other multichannel video programming distributors. Wireless cable programming to subscribers resembles cable television, but instead of coaxial cable, wireless cable uses microwave channels.

81. In light of the use of wireless frequencies by BRS and EBS services, the closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

82. According to Commission data as of December 2021, there were approximately 5,869 active BRS and EBS licenses. The Commission's small business size standards with respect to BRS involves eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of BRS licenses, the Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues exceed $3 million and did not exceed $15 million for the preceding three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues exceed $15 million and did not exceed $40 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $3 million for the preceding three years. Of the ten winning bidders for BRS licenses, two bidders claiming the small business status won 4 licenses, one bidder

claiming the very small business status won three licenses and two bidders claiming entrepreneur status won six licenses. One of the winning bidders claiming a small business status classification in the BRS license auction has an active license as of December 2021.

83. The Commission's small business size standards for EBS define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $55 million for the preceding five (5) years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $20 million for the preceding five (5) years. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time the Commission is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

84. *Direct Broadcast Satellite (''DBS'') Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS is included in the Wired Telecommunications Carriers industry which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.

85. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service—DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation. DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, the Commission must conclude based on internally developed Commission data, in general DBS service is provided only by large firms.

86. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small. U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year. Of this number, 624 firms had fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

87. The Order does not impose new and/or additional reporting or record keeping requirements, however as proposed in the *Notices,* the *Order* imposes additional compliance obligations on certain small, as well as other, entities that distribute EAS alerts and manufacture EAS equipment that process such alerts.

88. Specifically, the Commission adopts a mandatory CAP polling rule that requires EAS Participants, when they receive a state or local legacy EAS alert, to poll the IPAWS CAP EAS server to confirm whether there is a CAP version of that alert and use the CAP version. EAS Participants must poll the IPAWS CAP EAS Feed for a CAP version of the received legacy alert at least 10 seconds after detection of the legacy alert's initial header code for a legacy state or local alert that, (i) is valid, (ii) covers a type of event and a geographic area for which the EAS Participant normally transmits alerts to the public and (iii) is not a duplicate of a CAP-formatted message it has already received.

89. The Commission also adopts changes to three EAS code text descriptions that EAS Participants must implement within one-year of the effective date of the *Order.* These changes impact for PEP code, EAN code, and NPT codes, but do not change the three-letter codes themselves. The *Order* changes the PEP code description from ''Primary Entry Point'' to ''United States Government,'' and changes the EAN code description from ''Emergency Action Notification'' to ''National Emergency Message,'' and the NPT event code description from ''National Periodic Test'' to ''Nationwide Test of the Emergency Alert System.'' Additionally, the Commission requires a separate, longer prepared visual script for the NPT during legacy-based nationwide EAS test alerts. and deletes the NIC code from the EAS.

90. All of these changes require EAS equipment manufacturers to develop software updates in deployed EAS equipment and EAS equipment in production. Separately, the CAP polling change, the NPT code description change, and the NPT script addition will each also require EAS participants, particularly cable operators, to conduct testing and make modifications to downstream equipment used to process alerts, such as set-top boxes. The EAN code description change will also require EAS participants, particularly cable operators, to replace certain downstream equipment used to process the EAN, such as set-top boxes. In addition, since some deployed EAS encoder equipment might not be capable of being updated to reflect the new requirements, those devices will have to be replaced.

91. The primary costs associated with the rules the Commission adopts in the *Order* involve creating and installing software into EAS encoder devices, testing and modifying downstream network processing equipment, and replacing certain downstream processing equipment. In the *Notices,* the Commission requested cost estimates from the parties on the proposals adopted in today's proceeding but did not receive any. Therefore, the

Commission cannot quantify the cost of compliance for small entities. The Commission assesses that small entities will need to have their EAS decoder equipment updated by manufacturers to implement the requirements adopted in the *Order.* However, based on past EAS equipment updates where the Commission adopted changes adding new EAS event codes, the Commission believes the cost of compliance with the rule changes adopted in the *Order* for most affected industries, will not significantly exceed the costs of software updates that most EAS Participants would need to implement whether or not these rule changes are adopted. Moreover, the Commission further believes that the cost of implementing the required EAS decoder equipment changes will be roughly in line with the cost of changes adopted in the *2016 Weather Alerts Order* and the *2017 Blue Alerts Order,* which similarly entailed few costs beyond the reprogramming of EAS decoder equipment. Consequently, the Commission estimates the costs of all decoder software updates needed to implement the rule changes adopted in the *Order,* most of which according to commenters in the proceeding can be bundled with ''normally scheduled software releases'' and performed at the same time, will cost a total of $5 million for the industry. Additionally, small entities that have complied with previous EAS code changes have the experience, and should have the processes and procedures in place to facilitate compliance resulting in minimal incremental costs to comply with the changes in the *Order.*

92. With regard to four of the six changes cable operators have identified (CAP polling, EAN text, NPT text, and NPT script) as requiring testing, modification, and/or replacement of downstream equipment in cable operators' networks, the Commission believes small and other cable operators will realize significant cost savings from conducting testing and downstream equipment modification in a coordinated fashion for all of these changes on the same one-year schedule, and these costs are included in the $5 million cost ceiling. Further, since the Commission has allowed cable operators the additional time to replace set-top boxes with new equipment that no longer have the EAN label hard-wired into them which should make it possible for operators to incorporate such a specification into the new devices that will be installed in consumers' premises in the ordinary course of business irrespective of this requirement, in most instances, the Commission estimates the additional costs that small and other cable operators will incur to replace set-top boxes to implement this requirement over the extended six-year period following the effective date of this order should not exceed $4.4 million.

93. The Commission believes these changes adopted in the *Order* impose minor costs for small and other entities, when compared to the substantial public safety improvements reflected in the record. While as a general matter, it is impossible to quantify the precise dollar value of improvements to the public's safety, life, and health, the value of these changes are likely to substantially exceeds the overall cost of their implementation. Thus, the Commission further believes that the value of improved public safety in reducing risk of avoidable deaths and injuries by better informing the public of pending emergencies is substantial, and outweighs the costs of the EAS changes adopted in the *Order.*

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

94. The RFA requires an agency to provide, a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

95. The actions taken by the Commission in the *Order* are intended to be minimally costly and minimally burdensome for small and other entities impacted by the rules. As such, the Commission does not expect the adopted requirements to have a significant economic impact on small entities. Below the Commission discusses actions the Commission takes in the *Order* to minimize any significant economic impact on small entities and some alternatives that were considered.

96. *Adopting A Mandatory CAP Polling and CAP Message Prioritizing Requirement.* The Commission considered but declined to adopt proposals by commenters not to implement a CAP polling requirement and to make CAP message prioritizing optional within the discretion of each EAS Participant. These alternatives were not supported by any factual information, were not justifiable because of the current unavailability of National Weather Service (NWS) alerts in CAP format and were premised on an erroneous assumption that the Commission would adopt a uniform polling requirement for all EAS Participants. The Commission concluded that the potential benefits to public safety of increased CAP usage for non-weather related state and local emergency alerts should not be foreclosed because NWS alerts are not included. Moreover, the Commission has included sufficient flexibility in its requirements to account for unique factors affecting EAS Participants.

97. The Commission also considered but declined to grant radio broadcasters an exception from its CAP prioritization mandate. There are various reasons why radio broadcasters, like video service EAS Participants, should be required to distribute CAP messages rather than legacy-formatted messages wherever possible. Indeed, the Commission identifies various reasons why radio broadcasters, like video service EAS Participants, should be required to distribute CAP messages rather than legacy-formatted messages wherever possible, including but not limited to the fact that there are digital radio broadcasters that produce visual alerts to digital radio receivers; the use of text-to-speech has been standardized in EAS equipment and systems for over 12 years and it is routinely used and supported today and the audio generated from a CAP alert, whether from text-to-speech or from airing a CAP audio file, typically is superior in clarity and quality to that contained in a legacy alert.

98. *Changing the Three-Letter EAS Codes.* The Commission has declined to adopt its *Notice* proposals to change the three-letter codes for PEP to NAT and for EAN to NEM, which would have created both increased decoder costs and substantial downstream network equipment replacement costs for small entities and other EAS Participants. Similarly, the three-letter event code for the NPT will remain the same, which the Commission believes will also minimize the compliance burdens borne by EAS Participants. Changing only the definitions of these codes, as the *Order* does, achieves the public benefit of more comprehensible alerts, whereas changing the three-letter codes themselves does not further the goal of averting public confusion because the public does not see the three-letter codes on their screens or hear them pronounced in audio, and similarly the three-letter codes are not seen by EAS participants. Rather, the three-letter code acronyms are computer code designed to transmit specific

instructions for different alerts and to instruct EAS equipment to generate different outputs based on the codes. By leaving the codes as-is, the *Order* avoids substantial compliance costs that small entities would have otherwise faced.

99. *Timing of Compliance.* The Commission has adopted a consolidated compliance schedule allowing a full year from the effective date of the *Order* for entities to comply with all regulatory changes adopted in the *Order,* instead of requiring multiple compliance timeframes (with two exceptions discussed in the following paragraph). This approach is consistent with the Commission's past orders requiring EAS encoder software updates and will save small entities significant costs, as production and labor to make the necessary EAS encoder equipment changes can be done with a single software installation instead of multiple installations in different years and on different compliance timetables. The consolidated compliance schedule, which establishes a single deadline for compliance with multiple similar changes, also means that downstream equipment field testing and modifications can often be conducted at the same time, saving small as well as other entities the cost of scheduling additional separate field tests and upgrades at different times in different years.

100. The exceptions to the one year compliance requirement provide a six year compliance deadline for cable operators to replace downstream equipment to comply with the EAN descriptive text change, and fifteen months for downstream equipment EAN software updates. These implementation extensions will substantially reduce costs for small entities, as set-top boxes can be replaced in the ordinary course of business per the normal lifecycle of this equipment, instead of requiring a large scale replacement of set-top boxes for compliance on a nearer term schedule. Accordingly, the marginal cost of compliance with the change to EAN text displayed to the public will be substantially reduced for small and all other cable operators entities including small entities.

101. *Legacy Script Change Exemption.* The Commission exempted radio broadcasters from compliance with the NPT legacy script change. The Commission did not find that the potential marginal benefit of applying the legacy script requirement to all radio broadcasters was justified when the vast majority of radio broadcasters will not produce increased alert clarity as a result of such a requirement. This exemption will reduce costs for small and other radio broadcaster entities. Moreover, since radio broadcasters in particular make up the largest category of EAS Participants by number of entities, lessening costs for this category of EAS participants should minimize the economic impact for a substantial number of small entities.

102. *Implementation.* The Commission does not mandate how EAS equipment must be designed in order to comply with the rule changes adopted in the *Order* and will use performance standards rather than design standards to measure compliance. EAS Participants will be in compliance with the required changes as long as their EAS equipment performs the CAP polling within the specified time frame, and ensures the new code descriptive text or script is displayed to the public. Leaving the equipment modification decisions up to the industry provides small and other affected EAS Participants the flexibility to make decisions and adopt approaches that are technically and financially feasible for their businesses.

103. *Persistent Alerts.* The Commission has declined to adopt a new persistent alerting requirement in light of the record which establishes that requiring equipment updates and network changes necessary to implement this rule will introduce excessive costs to EAS Participants that are difficult to justify given the complexity and design burdens associated with their adoption. The Commission was not persuaded that implementing persistent alerts would be technically feasible in the context of the basic design of the EAS, and note that there was virtually unanimous opposition to this proposal by commenting parties, including alert originators, SECCs, EAS Participants, and equipment manufacturers. Further, adopting a persistent alerting requirement would have resulted in substantial equipment modifications or replacements for all affected small and other entities, and could have led to significant problems and disruptions to the overall EAS system. Such events, which would result in even greater costs in the form of fixing later-arising problems or malfunctions, and would have further increased costs for all EAS Participants and been detrimental to EAS operations and potentially to the public.

Report to Congress

104. The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA.

Paperwork Reduction Act Analysis

105. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

Congressional Review Act

106. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Incorporation by Reference

The material referenced in the regulatory text was approved for incorporation by reference on April 23, 2012, and no changes are made in this final rule.

Ordering Clauses

107. Accordingly, *it is ordered* that, pursuant to 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, 613, 1201, 1202(a), (b), (c), (f), 1203, 1204 and 1206, that the foregoing Report and Order *is adopted,* and the Commission's rules are hereby amended, as set forth in Appendix A of the Report & Order.

108. *It is further ordered* that that 47 U.S.C. part 11 *is amended,* as set forth below, and that this Report and Order, including the amended rules, *shall be effective* December 12, 2022.

109. *It is further ordered* that the Office of the Managing Director, Performance Evaluation and Records Management, *shall send* a copy of this Report & Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

110. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 11

Incorporation by reference, Radio, Television.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

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

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g), 606, 1201, 1206.

■ 2. Amend § 11.2 by revising paragraph (a) to read as follows:

§ 11.2 Definitions.

* * * * *

(a) *National Emergency Message (EAN).* The National Emergency Message (formerly called the Emergency Action Notification or Presidential alert message) is the notice to all EAS Participants and to the general public that the EAS has been activated for a national emergency. EAN messages that are formatted in the EAS Protocol (specified in § 11.31) are sent from a government origination point to broadcast stations and other entities participating in the National Public Warning System, and are subsequently disseminated via EAS Participants. Dissemination arrangements for EAN messages that are formatted in the EAS Protocol (specified in § 11.31) at the State and local levels are specified in the State and Local Area plans (defined at § 11.21). A national activation of the EAS for a Presidential National Emergency Message with the Event code EAN as specified in § 11.31 must take priority over any other message and preempt it if it is in progress.

* * * * *

■ 3. Amend § 11.16 by revising paragraph (a) and removing paragraph (c) to read as follows:

§ 11.16 National Control Point Procedures.

* * * * *

(a) *National Level EAS Activation.* This section contains the activation and termination instructions for the National Emergency Message.

* * * * *

■ 4. Revise § 11.18 to read as follows:

§ 11.18 EAS Designations.

(a) A Primary Entry Point (PEP) is a private or commercial radio broadcast station that cooperatively participates with FEMA to provide EAS alerts to the public. PEPs are the primary source of initial broadcast for a Presidential Alert. A PEP is equipped with back-up communications equipment and power generators designed to enable it to continue broadcasting information to the public during and after disasters of national significance. The National Public Warning System (formerly called the Primary Entry Point System) is a nationwide network of broadcast stations and satellite operators used to distribute EAS alerts formatted in the EAS Protocol. FEMA is responsible for designating broadcast stations as PEPs.

(b) A National Primary (NP) is an entity tasked with the primary responsibility of receiving the National Emergency Message from a PEP and delivering it to an individual state or portion of a state. In states without a PEP, the NP is responsible for receiving the National Emergency Message from an out-of-state PEP and transmitting it to the public and other EAS Participants in the state. Multiple entities may be charged with primary responsibility for delivering the National Emergency Message.

(c) A State Primary (SP) is an entity tasked with initiating the delivery of EAS alerts other than the National Emergency Message.

(d) A State Relay (SR) is an entity not otherwise designated that is charged with retransmitting EAS alerts for the purpose of being monitored by a Local Primary or Participating National. SRs must monitor or deliver EAS alerts as required by the State EAS Plan.

(e) A State Relay Network (SRN) is a network composed of State Relay (SR) sources, leased common carrier communications facilities, or any other available communication facilities. The network distributes State EAS messages originated by the Governor or designated official. In addition to EAS monitoring, satellites, microwave, FM subcarrier, or any other communications technology may be used to distribute State emergency messages.

(f) A Local Primary (LP) is an entity that serves as a monitoring assignment for other EAS Participants within the state. LP sources may be assigned numbers (*e.g.,* LP–1, 2, 3) and are relied on as monitoring sources by other EAS Participants in the Local Area. An LP may monitor any other station, including another LP, as set forth in the State EAS Plan, so long as doing so avoids creating a single point of failure in the alert distribution hierarchy.

(g) A Participating National (PN) is an EAS Participant that transmits national, state, or Local Area EAS messages, and is not otherwise designated within the State EAS Plan. PNs monitor LPs or other sources as set forth in the State EAS Plan.

■ 5. Amend § 11.21 by revising paragraphs (a)(2), (4), and (7) to read as follows:

§ 11.21 State and Local Area plans and FCC Mapbook.

* * * * *

(a) * * *

(2) Procedures for state emergency management officials, the National Weather Service, and EAS Participant personnel to transmit emergency information to the public during an emergency via the EAS, including the extent to which the state's dissemination strategy for state and local emergency alerts differs from its strategy for the National Emergency Message;

* * * * *

(4) A monitoring assignment matrix, in computer readable form, clearly showing monitoring assignments and the specific primary and backup path for the National Emergency Message (EAN) from the NPWS to all key EAS sources (using the uniform designations specified in § 11.18) and to each station in the plan, organized by operational areas within the state. If a state's emergency alert system is capable of initiating EAS messages formatted in the Common Alerting Protocol (CAP), its EAS State Plan must include specific and detailed information describing how such messages will be aggregated and distributed to EAS Participants within the state, including the monitoring requirements associated with distributing such messages;

* * * * *

(7) The SECC governance structure utilized by the state in order to organize state and local resources to ensure the efficient and effective delivery of a National Emergency Message, including the duties of the SECC, the membership selection process utilized by the SECC, and the administrative structure of the SECC.

* * * * *

■ 6. Amend § 11.31 by revising paragraph (d), and amending paragraph (e) by revising the entries under the heading ''National codes (Required)'' to read as follows:

§ 11.31 EAS protocol.

* * * * *

(d)(1) The only originator codes are:

Originator	ORG code
EAS Participant	EAS

Originator	ORG code
Civil authorities	CIV
National Weather Service	WXR
United States Government	PEP

(2) Use of the previously authorized NIC originator code (National Information Center) must be discontinued by no later than December 12, 2023.

(e) * * *

Nature of activation	Event codes
National codes (required):	
National Emergency Message	EAN
Nationwide Test of the Emergency Alert System.	NPT
Required Monthly Test	RMT
Required Weekly Test	RWT

* * * * *

* * * * *

■ 7. Amend § 11.51 by revising paragraphs (d), (g)(3), (h)(3), (j)(2), introductory text of paragraph (m), (m)(2), and (p) to read as follows:

§ 11.51 EAS code and Attention Signal Transmission requirements.

* * * * *

(d) Analog and digital television broadcast stations, analog cable systems, digital cable systems, wireless cable systems, wireline video systems, and DBS providers shall transmit a visual message containing the Originator, Event, and Location and the valid time period of an EAS message. Visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the ''ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0'' (May 17, 2010).

(1) The visual message portion of an EAS alert, whether video crawl or block text, must be displayed:

(i) At the top of the television screen or where it will not interfere with other visual messages

(ii) In a manner (*i.e.,* font size, color, contrast, location, and speed) that is readily readable and understandable,

(iii) In a manner that does not contain overlapping lines of EAS text or extend beyond the viewable display (except for video crawls that intentionally scroll on and off of the screen), and

(iv) In full at least once during any EAS message.

(2) The audio portion of an EAS message must play in full at least once during any EAS message.

(3) On and after December 12, 2023,

(i) The portion of the required visual message corresponding with the Originator Code shall use the term in the first column in the table in § 11.31(d) corresponding to the ORG code in the second column of that table.

(ii) The portion of the required visual message corresponding with the Event Code shall use the term in the first column in the table in § 11.31(e) corresponding to the Event code in the second column of that table, except as set forth in paragraphs (d)(3)(iii) and (d)(5) of this section.

(iii) Notwithstanding paragraphs (d)(3)(i) and (ii) of this section, if the header codes of the received EAS message specify the NPT Event code and the ''All U.S.'' location code, and if the received EAS message is formatted in the EAS protocol, then the required visual message shall consist of the following text instead of replicating the terms of the Originator, Event, and Location codes: ''This is a nationwide test of the Emergency Alert System, issued by the Federal Emergency Management Agency, covering the United States from [time] until [time]. This is only a test. No action is required by the public.'' The ''from [time] until [time]'' portion of the text required in the preceding sentence shall be determined from the alert's release date/time and valid time period header codes specified at § 11.31(c).

(4) Prior to December 12, 2023, the required visual message shall either conform to paragraph (d)(3) or, in the alternative, shall display—

(i) The term ''Emergency Action Notification'' as the portion of the visual message corresponding to the EAN Event code if the header codes of the received EAS message specify the EAN Event code.

(ii) The term ''National Periodic Test'' as the portion of the visual message corresponding to the NPT Event code if the header codes of the received EAS message specify the NPT Event code.

(iii) The term ''Primary Entry Point'' as the portion of the visual message corresponding to the PEP Originator code if the header codes of the received EAS message specify the PEP Originator code.

(5) If the EAS Participant is an analog or digital cable system subject to paragraphs (g) or (h) of this section, then—

(i) If, with respect to a particular subscriber, the portion of the required visual message corresponding to the EAN event code can be altered by means of software upgrades or other changes that do not require replacement of the subscriber's navigation device, then, prior to March 12, 2024, the portion of the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with either paragraph (d)(3)(ii) or (d)(4)(i) of this section; after that date, the portion of the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with paragraph (d)(3)(ii) of this section.

(ii) If, with respect to a particular subscriber, no alterations to the portion of the required visual message corresponding to the EAN event code can be implemented unless the subscriber's navigation device is replaced with a device that is capable of displaying the visual message corresponding to the EAN event code as set forth in paragraph (d)(3)(ii) of this section then, prior to December 12, 2028 or the date when the subscriber's navigation device is replaced, whichever occurs earliest—

(A) The portion of the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with either paragraph (d)(3)(ii) or paragraph (d)(4)(i) of this section; thereafter, the portion of the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with paragraph (d)(3)(ii) of this section.

(B) If the operator of the cable system makes the navigation device available to the subscriber as ''associated equipment'' in connection with a cable service, as the term ''associated equipment'' is used in part 76, subpart N of this chapter, and a subscriber who is deaf or hard of hearing requests that the cable system operator provide a navigation device that is capable of displaying a visual message that complies with paragraph (d)(1) of this section, to replace a navigation device that lacks such capability, then the cable system operator shall provide and, if necessary, install such replacement navigation device within a reasonable period of time, to the same extent required and on the same terms and conditions as set forth at § 79.108 of this chapter. This paragraph (d)(5)(ii)(B) applies only to subscribers who state that they are deaf or hard of hearing or a household member who is deaf or hard of hearing.

(iii) Prior to December 12, 2028, the cable system operator must prominently display on its website information regarding the availability of replacement navigation devices to eligible subscribers as set forth in paragraph (d)(5)(ii)(B) of this section, in the same manner as provided at § 79.108(d)(2) of this chapter.

(iv) For purposes of this paragraph (d)(5), the term ''navigation device''

means equipment that is located at a subscriber's premises and satisfies the definition of ''navigation device'' in § 76.1200(c) of this chapter.

* * * * *

(g) * * *

(3) Shall transmit a visual EAS message on at least one channel. The visual message shall comply with the requirements in paragraph (d) of this section.

* * * * *

(h) * * *

(3) Shall transmit the EAS visual message on all downstream channels. The visual message shall comply with the requirements in paragraph (d) of this section.

* * * * *

(j) * * *

(2) The visual message shall comply with the requirements in paragraph (d) of this section.

* * * * *

(m) EAS Participants are required to transmit all received EAS messages in which the header code contains the Event code for National Emergency Message (EAN), Nationwide Test of the Emergency Alert System (NPT), or Required Monthly Test (RMT), and when the accompanying location codes include their State or State/county. These EAS messages shall be retransmitted unchanged except for the LLLLLLLL-code which identifies the EAS Participant retransmitting the message. See § 11.31(c). If an EAS source originates an EAS message with any of the Event codes listed in this paragraph, it must include the location codes for the State(s) and counties in its service area. When transmitting the required weekly test, EAS Participants shall use the event code RWT. The location codes are the state and county for the broadcast station city of license or system community or city. Other location codes may be included upon approval of station or system management. EAS messages may be transmitted automatically or manually.

* * * * *

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the National Emergency Message (EAN) Event code or the Nationwide Test of the Emergency Alert System (NPT) Event code must be transmitted immediately. Monthly EAS test messages must be transmitted within 60 minutes. All actions must be logged and include the minimum information required for EAS video messages.

* * * * *

(p) The material listed in this paragraph (p) is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Communications Commission (FCC) must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the FCC and at the National Archives and Records Administration (NARA). Contact FCC at: the address indicated in 47 CFR 0.401(a) of this chapter (Reference Information Center). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* The material may be obtained from the following source in this paragraph (p).

* * * * *

■ 8. Amend § 11.52 by revising paragraphs (d)(2) and (e) to read as follows:

§ 11.52 EAS code and Attention Signal Monitoring requirements.

* * * * *

(d) * * *

(2) With respect to monitoring EAS messages formatted in accordance with the specifications set forth in § 11.56(a)(2), EAS Participants' EAS equipment must regularly poll the Federal Emergency Management Agency's Integrated Public Alert and Warning System (IPAWS) EAS alert distribution channel to detect and acquire Common Alert Protocol (CAP)-formatted alert messages from the IPAWS system to EAS Participants' EAS equipment.

* * * * *

(e) EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the Event codes for National Emergency Message (EAN), the Nationwide Test of the Emergency Alert System (NPT), or the Required Monthly Test (RMT) for their State or State/county location.

* * * * *

■ 9. Amend § 11.55 by:

■ a. Revising the introductory text of paragraph (c) and paragraphs (c)(1) and (2);

■ b. Removing paragraph (c)(3);

■ c. Redesignating paragraph (c)(4) as paragraph (c)(3) and revising it;

■ d. Redesignating paragraphs (c)(5) through (8) as paragraphs (c)(4) through (7), respectively; and

■ e. Revising the introductory text of paragraph (d) and paragraph (d)(2).

The revisions read as follows:

§ 11.55 EAS operation during a State or Local Area emergency.

* * * * *

(c) An EAS Participant that participates in the State or Local Area EAS, upon receipt of a State or Local Area EAS message that has been formatted in the EAS Protocol and that has event and location header codes indicating that it is a type of message that the EAS Participant normally relays, consistent with the procedures in the State or Local Area EAS Plan, must do the following:

(1) Prior to December 12, 2023, the EAS Participant shall follow the procedures set forth in the State EAS Plan and paragraphs (c)(3) through(7) of this section.

(2) On and after December 12, 2023,—

(i) *CAP Prioritization.* If a message formatted in the Common Alerting Protocol is available that is a duplicate of the received message formatted in the EAS Protocol, then the EAS Participant shall not transmit the received message formatted in the EAS Protocol but shall follow the procedures in paragraph (d) of this section to transmit the message formatted in the Common Alerting Protocol.

(ii) *Polling.* At least ten (10) seconds after detecting the initial header code of a received message formatted in the EAS protocol, if the EAS Participant has not by that time determined that a duplicate message formatted in the Common Alerting Protocol is available, it shall poll the Federal Emergency Management Agency's Integrated Public Alert and Warning System (IPAWS) at least once to determine whether a duplicate CAP-formatted alert message is available.

(A) If a duplicate CAP-formatted alert message is available, the EAS Participant shall proceed according to paragraphs (c)(2)(i) and (d) of this section.

(B) If no duplicate CAP-formatted alert message is available, or if the alert contents, including the audio message, cannot be acquired within a reasonable timeframe, the EAS Participant shall proceed according to paragraphs (c)(3)–(7) of this section.

(iii) For purposes of this paragraph (c)(2), two EAS messages are ''duplicates'' if the originator codes, event codes, location codes, and date-time codes in the validated headers of both messages are all identical, and the valid time-period codes in the headers of both messages cover approximately the same periods of time, with allowances for the different manners in

which messages in CAP and legacy EAS formats express valid time periods.

(3) EAS Participants participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in their State and Local Area Plans. Analog and digital television broadcast stations must transmit all EAS announcements visually and aurally as specified in § 11.51(a) through (e) and 73.1250(h) of this chapter, as applicable; analog cable systems, digital cable systems, wireless cable systems, and wireline video systems must transmit all EAS announcements visually and aurally as specified in § 11.51(d), (g), and (h); and DBS providers must transmit all EAS announcements visually and aurally as specified in § 11.51(d) and (j). EAS Participants providing foreign language programming should transmit all EAS announcements in the same language as the primary language of the EAS Participant.

* * * * *

(d) An EAS Participant that participates in the State or Local Area EAS, upon receipt of a State or Local Area EAS message that has been formatted in the Common Alerting Protocol and that has event and location header codes indicating that it is a type of message that the EAS Participant normally relays, must do the following:

* * * * *

(2) Analog and digital television broadcast stations must transmit all EAS announcements visually and aurally as specified in § 11.51(a) through (e) and 73.1250(h) of this chapter, as applicable; analog cable systems, digital cable systems, wireless cable systems, and wireline video systems must transmit all EAS announcements visually and aurally as specified in § 11.51(d), (g), and (h); and DBS providers must transmit all EAS announcements visually and aurally as specified in § 11.51(d) and (j). EAS Participants providing foreign language programming should transmit all EAS announcements in the same language as the primary language of the EAS Participant.

* * * * *

■ 10. Amend § 11.56 by revising the introductory text of paragraph (d) to read as follows:

§ 11.56 Obligation to process CAP-formatted EAS messages.

* * * * *

(d) The material listed in this paragraph (d) is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Communications Commission (FCC) must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the FCC and at the National Archives and Records Administration (NARA). Contact FCC at: the address indicated in 47 CFR 0.401(a) of this chapter (Reference Information Center). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.* The material may be obtained from the following sources in this paragraph (d).

* * * * *

■ 11. Amend § 11.61 by adding paragraph (a)(1)(iv) and revising the paragraph heading to paragraph (a)(3) to read as follows:

§ 11.61 Tests of EAS procedures.

(a) * * *

(1) * * *

(iv) Upon receipt of an EAS message in the EAS Protocol format with the Required Monthly Test (RMT) event code, an EAS Participant shall follow the steps set forth in § 11.55(c)(1) through(3).

* * * * *

(3) Nationwide Tests of the Emergency Alert System (NPT) (national tests).

* * * * *

[FR Doc. 2022–23408 Filed 11–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[EB Docket No. 20–374; FCC 21–75; FR ID 112274]

Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved an information collection associated with rules governing Implementing the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act). The Commission also announces that private entities may begin submitting information in the Private Entity Robocall Portal. It removes paragraphs advising that compliance was not required until OMB approval was obtained. This document is consistent with the 2021 Report and Order, which states the Commission will publish a document in the **Federal Register** announcing a compliance date for the rule sections and revise the rules accordingly.

DATES:

Effective date: The amendments are effective November 10, 2022.

Compliance date: Compliance with 47 CFR 64.1204(a) and 64.1606(a), published at 86 FR 52840 on September 23, 2021, is required as of November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Daniel Stepanicich, Enforcement Bureau, Telecommunications Consumers Division, at (202) 418–7451 or *daniel.stepanicich@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirements in §§ 64.1204(a) and 64.1606(a) on November 16, 2021.

The Commission publishes this document as an announcement of the compliance date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, regarding OMB Control Number 3060–1296. Please include the applicable OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on November 16, 2021, for the information collection requirements contained in §§ 64.1204(a) and 64.1606(a). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a

collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1296.

OMB Approval Date: November 16, 2021.

OMB Expiration Date: November 30, 2024.

Title: Private Entity Robocall and Spoofing Information Submission Portal, FCC Form 5642.

Form Number: FCC Form 5642.

Type of Review: New collection.

Respondents: Business or other for-profit entities, and not for profit institutions.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement; third party

Obligation to Respond: Voluntary. Statutory authority is contained in the TRACED Act section 10(a).

Total Annual Burden: 50 hours.

Total Annual Cost: No Cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Assurances of confidentiality are provided to the respondents; however, respondents are made aware that their submissions may be shared with the Department of Justice, Federal Trade Commission, other Federal agencies combatting robocalls, state attorney general offices, other law enforcement entities with which the Commission has information sharing agreements, and the registered traceback consortium.

Needs and Uses: Section 10(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) directs the Commission to establish regulations to create a process that ''streamlines the ways in which a private entity may voluntarily share with the Commission information relating to'' a call or text message that violates prohibitions regarding robocalls or spoofing set forth section 227(b) and 227(e) of the Communications Act of 1934, as amended. On June 17, 2021, the Commission adopted a Report and Order to implement section 10(a) by creating an online portal located on the Commission's website where private entities may submit information about robocall and spoofing violations. The Enforcement Bureau (Bureau) will manage this portal.

A private entity is any entity other than (1) an individual natural person or (2) a public entity. A public entity is any governmental organization at the Federal, state, or local level. Thus, the portal is not intended for individual consumers who already have a mechanism to submit robocall or spoofing complaints via the Commission's informal complaint process.

The portal requests private entities to submit certain minimum information including, but not necessarily limited to, the name of the reporting private entity, contact information, including at least one individual name and means of contacting the entity (*e.g.,* a phone number), the caller ID information displayed, the phone number(s) called, the date(s) and time(s) of the relevant calls or texts, the name of the reporting private entity's service provider, and a description of the problematic calls or texts. Although the portal does not reject submissions that fail to include the above information, such failure makes it more difficult for the Bureau to investigate fully and take appropriate enforcement action. Once submitted, the Bureau will review to determine whether the information presents evidence of a violation of the Commission's rules. The Bureau may share submitted information with the Department of Justice, Federal Trade Commission, other Federal agencies combatting robocalls, state attorney general offices, other law enforcement entities with which the Commission has information sharing agreements, and the registered traceback consortium.

This document also removes §§ 64.1204(c) and 64.1606(c) of the Commission's rules, which advised that compliance with §§ 64.1204(a) and 64.1606(a) was not required until OMB approval was obtained.

List of Subjects in 47 CFR Part 64

Communications, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

§ 64.1204 [Amended]

■ 2. Amend § 64.1204 by removing paragraph (c).

§ 64.1606 [Amended]

■ 3. Amend § 64.1606 by removing paragraph (c).

[FR Doc. 2022–24353 Filed 11–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–422; FCC 22–38; FR ID 112477]

FM Broadcast Radio Service Directional Antenna Performance Verification

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget has approved revisions to the information collection requirements under OMB Control Numbers 3060–0506 and 3060–0938, as associated with the amended rules adopted in the Federal Communications Commission's FM Broadcast Directional Antenna Performance Verification Order, FCC 22–38. This Order governs the Commission's revised FM broadcast rules to allow for FM antenna directional pattern verification by computer modeling, and the procedures for submitting the required modeling information on the appropriate FCC 2100, Schedule 302–FM (FM Station License Application) or FCC Form 2100, Schedule 319 (Low Power FM (LPFM) License Application). This document is consistent with the FM Broadcast Directional Antenna Performance Verification Order, which states that the Commission will publish a document in the **Federal Register** announcing the effective date for these amended rule sections and revise the rules accordingly.

DATES: The amendments to 47 CFR 73.316 and 73.1690, published at 87 FR 35426 on June 10, 2022, are effective November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, Office of the Managing Director, Federal Communications Commission, at (202) 418–2918 or *Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION: This document announces that the Office of Management and Budget (OMB) approved the information collection requirements in 47 CFR 73.316 and 73.1690 on October 13, 2022. These rule sections were adopted in the FM Broadcast Directional Antenna Performance Verification Order, FCC 22–38 (87 FR 35426 (June 10, 2022)). The Commission publishes this document as an announcement of the effective date for these amended rules.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 3.317, 45 L Street NE, Washington, DC 20554, regarding OMB Control Numbers 3060–0506 and 3060–0938. Please include the OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov*.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received final OMB approval on October 13, 2022, for the information collection requirements contained in 47 CFR 73.316 and 73.1690. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers for the information collection requirements in 47 CFR 73.316 and 73.1690 are 3060–0506 and 3060–0938.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0506.

Title: FCC Form 2100, Schedule 302–FM—FM Station License Application.

Form Number: FCC Form 2100, Schedule 302–FM.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 925 respondents; 925 responses.

Estimated Time per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 3,135 hours.

Total Annual Costs: $801,500.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Needs and Uses: In the FM Broadcast Directional Antenna Performance Verification Order, FCC 22–38, adopted May 19, 2022, and released on May 19, 2022, the Commission revised its FM broadcast rules and procedures to allow for FM antenna directional pattern verification by computer modeling. This represents an update from the previous requirement that an FM or LPFM directional antenna's performance be verified by the ''measured relative field pattern'' and brings our rules for those services into regulatory conformity with our rules governing AM and digital TV (DTV) directional antennas. The Commission expects that this change in how the antenna manufacturer may validate its FM directional antenna studies will provide an FM license applicant with greater flexibility in antenna siting and reduce the overall costs of designing and building an FM directional antenna, and station construction.

Specifically, pertaining to this Information Collection and full-service FM stations, the Commission revises the relevant rules, 47 CFR 73.316 and 73.1690, and corresponding instructions to the FM license application, as follows:

Gives an FM license applicant that employs a directional antenna the option of submitting computer-generated proofs of the FM directional antenna pattern prepared by the antenna's manufacturer, in lieu of measured pattern plots and tabulations derived from physical full-size or scale model antenna mockups.

In § 73.316, specifies the information required in a license application filed for a station using an FM directional antenna, which opts to use computer modeling pattern verification. For example, the license application must include a statement from the engineer responsible for designing the antenna, performing the modeling, and preparing the antenna manufacturer's instructions for installation of the antenna, that identifies and describes the software used to create the computer model, the software tool(s) used in the modeling and the procedures applied in using the software. The statement should describe all radiating structures included in the model. It must also include a certification that the software executed normally without generating error messages or warnings.

Requires that, the first time the directional pattern of a particular model of antenna is verified using computer results, the broadcast station must submit to the Commission both the results of the computer modelling and the measurements of either a full-size or scale model of the antenna or elements thereof, demonstrating a reasonable correlation between the measurements achieved and the computer model results. Once a particular antenna model or series of elements has been verified, subsequent applicants using the same antenna model number or elements and the same modeling software may cross-reference the original submission by providing the application file number.

The revisions to the relevant rules and corresponding Schedule 302–FM instructions listed above may potentially affect the substance, burden hours, and costs of completing the Schedule 302–FM. Therefore, this submission was made to OMB for approval of the revised Information Collection requirements.

OMB Control Number: 3060–0938.

Title: Form 2100, Schedule 319—Low Power FM Station License Application.

Form Number: FCC Form 2100, Schedule 319.

Respondents: Not-for-profit institutions, State, local, or Tribal Government.

Number of Respondents and Responses: 200 respondents and 200 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 200 hours.

Total Annual Cost: $27,500.

Obligation to Respond: Required to obtain or retain benefits. The statutory

authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Needs and Uses: In the FM Broadcast Directional Antenna Performance Verification Order, FCC 22–38, adopted May 19, 2022, and released on May 19, 2022, the Commission revised its FM broadcast rules and procedures to allow for LPFM antenna directional pattern verification by computer modeling. This represents an update from the previous requirement that an FM or LPFM directional antenna's performance be verified by the ''measured relative field pattern'' and brings our rules for those services into regulatory conformity with our rules governing AM and DTV directional antennas. The Commission expects that this change in how the antenna manufacturer may validate its LPFM directional antenna studies will provide an LPFM license applicant with greater flexibility in antenna siting and reduce the overall costs of designing and building an LPFM directional antenna, and station construction.

Specifically, pertaining to this Information Collection and LPFM stations, the Commission is revising the relevant rules, 47 CFR 73.316 and 73.1690, and corresponding instructions to the LPFM license application, as follows:

Gives an LPFM license applicant that employs a directional antenna the option of submitting computer-generated proofs of the LPFM directional antenna pattern prepared by the antenna's manufacturer, in lieu of measured pattern plots and tabulations derived from physical full-size or scale model antenna mockups.

In § 73.316, specifies the information required in a license application filed for a station using an LPFM directional antenna, which opts to use computer modeling pattern verification. For example, the license application must include a statement from the engineer responsible for designing the antenna, performing the modeling, and preparing the antenna manufacturer's instructions for installation of the antenna, that identifies and describes the software used to create the computer model, the software tool(s) used in the modeling and the procedures applied in using the software. The statement should describe all radiating structures included in the model. It must also include a certification that the software executed normally without generating error messages or warnings.

Requires that, the first time the directional pattern of a particular model of antenna is verified using computer results, the broadcast station must submit to the Commission both the results of the computer modelling and the measurements of either a full-size or scale model of the antenna or elements thereof, demonstrating a reasonable correlation between the measurements achieved and the computer model results. Once a particular antenna model or series of elements has been verified, subsequent applicants using the same antenna model number or elements and the same modeling software may cross-reference the original submission by providing the application file number.

The revisions to the relevant rules and corresponding Form 2100, Schedule 319 (LPFM License Application) instructions listed above may potentially affect the substance, hours, and costs of completing the Schedule 319 (LPFM License Application). Therefore, this submission was made to OMB for approval of the revised Information Collection requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–24350 Filed 11–9–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No: 210325–0071; RTID 0648–XC508]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2022 Management Area 1A Possession Limit Adjustment

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

ACTION: Temporary rule; possession limit adjustment.

SUMMARY: NMFS is implementing a 2,000-lb (907.2-kg) possession limit for Atlantic herring for Management Area 1A. This is required because NMFS projects that herring catch from Area 1A will reach 92 percent of the Area's sub-annual catch limit before the end of the fishing year. This action is intended to prevent overharvest of herring in Area 1A, which would result in additional catch limit reductions in a subsequent year.

DATES: Effective 00:01 hr local time, November 8, 2022, through December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Maria Fenton, Fishery Management Specialist, (978) 281–9196.

SUPPLEMENTARY INFORMATION: The Regional Administrator of the Greater Atlantic Regional Office monitors Atlantic herring fishery catch in each Management Area based on vessel and dealer reports, state data, and other available information. Regulations at 50 CFR 648.201(a)(1)(i)(A) require NMFS to implement a 2,000-lb (907.2-kg) possession limit for herring for Area 1A beginning on the date that catch is projected to reach 92 percent of the sub-annual catch limit (ACL) for that area.

Based on vessel reports, dealer reports, and other available information the Regional Administrator projects that the herring fleet will have caught 94 percent of the Area 1A sub-ACL by November 7, 2022. Therefore, effective 00:01 hr local time November 8, 2022, through December 31, 2022, a person may not attempt or do any of the following: Fish for; possess; transfer; purchase; receive; land; or sell more than 2,000 lb of herring per trip or more than once per calendar day in or from Area 1A.

Vessels that enter port before 00:01 hr local time on November 8, 2022, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 1A from that trip, provided that catch is landed in accordance with state management measures. Vessels may transit or land in Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided that: The herring were caught in an area not subject to a 2,000-lb (907.2-kg) limit; all fishing gear is stowed and not available for immediate use; and the vessel is issued a permit appropriate to the amount of herring on board and the area where the herring was harvested.

Also effective 00:01 hr local time, November 8, 2022, through 24:00 hr local time, December 31, federally permitted dealers may not attempt or do any of the following: Purchase; receive; possess; have custody or control of; sell; barter; trade; or transfer more than 2,000 lb (907.2 kg) of herring per trip or calendar day from Area 1A, unless it is from a vessel that enters port before 00:01 hr local time on November 8, 2022, and catch is landed in accordance with state management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment because it is unnecessary, contrary to the public interest, and impracticable.

Ample prior notice and opportunity for public comment has been provided for the required implementation of this action. The requirement to implement this possession limit was developed by the New England Fishery Management Council using public meetings that invited public comment on the measures when they were developed and considered along with alternatives. Further, the regulations requiring NMFS to implement this possession limit also were subject to public notice and opportunity to comment, when they were first adopted in 2014. Herring fishing industry participants monitor catch closely and anticipate potential possession limit adjustments as catch totals approach Area sub-ACLs. The regulation provides NMFS with no discretion and is designed for implementation as quickly as possible to prevent catch from exceeding limits designed to prevent overfishing while allowing the fishery to achieve optimum yield.

The 2022 herring fishing year began on January 1, 2022, and Management Area 1A opened to fishing on July 10, 2022. Data indicating that the herring fleet will have landed at least 92 percent of the 2022 sub-ACL allocated to Area 1A only recently became available. High-volume catch and landings in this fishery can increase total catch relative to the sub-ACL quickly, especially in this fishing year where annual catch limits are unusually low. If implementation of this possession limit adjustment is delayed to solicit prior public comment, the 2022 sub-ACL for Area 1A will likely be exceeded; thereby undermining the conservation objectives of the Herring Fishery Management Plan (FMP). If sub-ACLs are exceeded, the excess must be deducted from a future sub-ACL and would reduce future fishing opportunities. The public expects these actions to occur in a timely way consistent with the FMP's objectives. For the reasons stated above, NMFS also finds good cause to waive the 30-day delayed effectiveness in accordance with 5 U.S.C. 553(d)(3).

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

Dated: November 7, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–24598 Filed 11–7–22; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221104–0234]

RIN 0648–BL55

Fisheries of the Northeastern United States; Mid-Atlantic Golden Tilefish Fishery; Framework Adjustment 7 to Tilefish Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: This rule implements Framework Adjustment 7 to the Tilefish Fishery Management Plan, which includes specifications for the golden tilefish fishery for fishing years 2022–2024, a change to the annual specifications process, and a change to the start of the golden tilefish fishing year. This action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield. This action is intended to ensure measures are based on the best scientific information available and increase flexibility, where possible, for the tilefish fishery.

DATES: This rule is effective November 9, 2022.

ADDRESSES: Copies of the Environmental Assessment prepared for Tilefish Framework Adjustment 7, and other supporting documents for this action, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. These documents are also accessible via the internet at *https://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281–9225.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) manages the golden tilefish fishery under the Tilefish Fishery Management Plan (FMP), which outlines the Council's process for establishing annual specifications. The FMP requires the Council to recommend acceptable biological catch (ABC), an annual catch limit (ACL), an annual catch target (ACT), total allowable landings (TAL), and other management measures, currently for up to 3 years at a time. The directed commercial fishery is managed under an individual fishing quota (IFQ) program, with small amounts of non-IFQ catch allowed under an incidental permit. Detailed background information regarding the development of the 2022–2024 specifications for this fishery was provided in the proposed rule for this action (87 FR 56393; September 14, 2022), and is not repeated here.

2022–2024 Fishery Specifications

In 2020, the Council set specifications for 2021 and interim specifications for 2022. This action revises the 2022 golden tilefish ABC with a 20-percent increase from the interim 2022 specifications, maintains a constant ABC for 2023, and projects the same ABC for 2024. The 20 percent increase was based on the 2021 management track stock assessment and recommendations from the Scientific and Statistical Committee and Tilefish Monitoring Committee. This action makes no changes to the current recreational bag limit or the commercial/incidental trip limit. NMFS will publish a notice in the **Federal Register** before the 2024 fishing year notifying the public of the final specifications.

TABLE 1—FINAL 2022 AND 2023 AND PROJECTED 2024 SPECIFICATIONS

ABC	1,964,319 lb (891 mt).
ACL	1,964,319 (891 mt).
IFQ fishery ACT	1,763,478 (800 mt).
Incidental fishery ACT	92,815 (42 mt).
IFQ fishery TAL = ACT (no discards permitted in fishery).	1,763,478 lb (800 mt).
Incidental fishery TAL = Incidental fishery ACT—discards.	75,410 lb (42 mt).
Incidental Trip Limit	500 lb (226.8 kg) or 50 percent, by weight, of all fish, including golden tilefish, on board the vessel, whichever is less.

TABLE 1—FINAL 2022 AND 2023 AND PROJECTED 2024 SPECIFICATIONS—Continued

Recreational Bag Limit	8-fish recreational bag-size limit per angler, per trip.

Multi-Year Specifications

This action modifies the annual specifications process, so that multi-year specifications can be set for up to the maximum number of years needed to be consistent with the Northeast Region Coordinating Council-approved stock assessment schedule. Multi-year regulations have been implemented for all fisheries managed by the Council to relieve some of the administrative demands on the Council and NMFS associated with annual specification requirements. Longer-term specifications also provide greater regulatory consistency and predictability to the fishing sectors. This action provides additional flexibility as specifications could be set to cover the time period until a new golden tilefish stock assessment is available. Stock assessments provide critical information for setting specifications and, in the period between assessments, there often is no new information that would lead to changes to annual specifications. The Council will continue its process of reviewing multi-year specifications each year to determine if any modifications are necessary.

Fishing Year Timing

This action changes the fishing year to match the calendar year and starts on January 1. Changing the fishing year to the calendar year will match the period used in the stock assessments and the cost recovery program for the golden tilefish IFQ fishery. The 2022 fishing year, which started on November 1, 2021, will continue through December 31, 2022. The 2022 fishing year would be a 14-month year and IFQ permit holders will receive additional allocation because of the 20-percent increase to the 2022 ABC. IFQ permit holders would start with a new allocation at the start of the 2023 fishing year on January 1, 2023, based on the revised 2023 ABC. The 2023 fishing year, and all subsequent fishing years, will begin on January 1 and end on December 31.

Comments

On September 14, 2022, we published a proposed rule (87 FR 56393) requesting comment on the measures in Tilefish Framework Adjustment 7. The comment period was open through September 29, 2022. We received three public comments. One comment was not relevant to this rule.

Comment 1: One commenter supported the administrative changes, but opposed the increased ABC. The commenter noted that a constant harvest strategy is a better approach and avoids, ''whiplash'' quotas for the fishery.

Response: To account for potential uncertainties in the assessment projections, the Council adopted an Annual Catch Target that is more conservative. This provides stability in the annual specifications and reduce the risk of wide fluctuations in quotas. Maintaining the status quo would have prevented achieving optimum yield based on the most recent assessment information for this stock and would likely have unnecessarily disadvantaged smaller quota shareholders. The small increase implemented in this action balances the need to achieve optimum yield, while still minimizing variability and providing stability for the fishery.

Comment 2: One comment opposed the 8-fish recreational bag limit and recommended a lower bag limit of 4–6 fish as tilefish grow slowly and anglers rarely catch the current limit.

Response: The Monitoring Committee considered changing the bag limit, but opted not to because recreational landings are not included in the stock assessment model and because we did not change the bag limit when the quota dropped a few years ago. The bag limit is expected to help the fishery achieve the quota, and these measures are expected to maintain catch within the quota. The recreational bag limit also has not changed since it was first implemented by Amendment 1. In the final rule for Amendment 1, 8 fish was selected as the upper range of the mean effort in 1996–2005. Since that time, the mean effort numbers have tended to be in the range of 3–4 fish per angler, which indicates the 8-fish bag limit is not generally achieved and reducing it might not result in increased conservation. In addition, the 8-fish limit is valuable to party/charter owners who are trying to attract patrons for these long-duration trips offshore and the potential to take home 8 fish.

Changes From the Proposed Rule

The proposed rule inadvertently omitted the amendatory language to update the definition of 'Fishing Year' at 50 CFR 648.2 to reflect the corresponding proposed change to the golden tilefish fishing year. This final rule corrects this oversight. There are no other changes from the proposed rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with Framework Adjustment 7 to the Tilefish FMP,

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make the rule effective upon filing with the Office of the Federal Register. This rule changes the end of the fishing year to December 31 and extends the 2022 fishing year. Making this rule effective upon filing will allow additional time for IFQ permit holders to fully use the additional quota they will receive as a result of increasing their 2022 allocations. For these reasons, NMFS finds that a 30-day delay in effectiveness would be contrary to the public interest.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 7, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, revise the ''Fishing year'' definition to read as follows:

§ 648.2 Definitions.

* * * * *

Fishing year means:

(1) For the Atlantic deep-sea red crab fishery, from March 1 through the last day of February of the following year.

(2) Beginning in 2018, for the Atlantic sea scallop fishery, from April 1 through March 31 of the following year (for 2017, the Atlantic sea scallop fishing year will be from March 1, 2017, through March 31, 2018).

(3) For the NE multispecies, monkfish and skate fisheries, from May 1 through April 30 of the following year.

(4) For all other fisheries in this part, from January 1 through December 31.

* * * * *

■ 3. In § 648.292, revise paragraph (a) introductory text and paragraph (a)(1) to read as follows:

§ 648.292 Tilefish specifications.

(a) *Golden Tilefish.* The golden tilefish fishing year is the 12-month period beginning with January 1, annually.

(1) *Annual specification process.* The Tilefish Monitoring Committee shall review the ABC recommendation of the SSC, golden tilefish landings and discards information, and any other relevant available data to determine if the golden tilefish ACL, ACT, or total allowable landings (TAL) for the IFQ and/or incidental sectors of the fishery require modification to respond to any changes to the golden tilefish stock's biological reference points or to ensure any applicable rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the IFQ and/or incidental TAL will not be exceeded. Based on that review, the Monitoring Committee will recommend the golden tilefish ACL, ACTs, and TALs to the Tilefish Committee of the MAFMC. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the MAFMC the appropriate golden tilefish ACL, ACT, TAL, and other management measures for both the IFQ and the incidental sectors of the fishery for a single fishing year or up to the maximum number of years needed to be consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate golden tilefish ACL, ACT, TAL, the percentage of TAL allocated to research quota, and any management measures to ensure that the TAL will not be exceeded, for both the IFQ and the incidental sectors of the fishery, for the next fishing year, or up to the maximum number of fishing years consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and, after such review, NMFS will publish a proposed rule in the **Federal Register** specifying the annual golden tilefish ACL, ACT, TAL, and any management measures to ensure that the TAL will not be exceeded for the upcoming fishing year or years for both the IFQ and the incidental sectors of the fishery. After considering public comments, NMFS will publish a final rule in the **Federal Register** to implement the golden tilefish ACL, ACTs, TALs and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the research quota process described in paragraph (a)(5) of this section. NMFS will issue notification in the **Federal Register** if the previous year's specifications will not be changed.

* * * * *

[FR Doc. 2022–24540 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 220223–0054; RTID 0648–XC322]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of the 2022 Atka mackerel incidental catch allowance (ICA) for the Bering Sea subarea and Eastern Aleutian district (BS/EAI) to the Amendment 80 cooperative allocation for the BS/EAI in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2022 total allowable catch of Atka mackerel in the BSAI to be fully harvested.

DATES: Effective 12:00 p.m. Alaska local time (A.l.t.), November 7, 2022, through 12:00 a.m., A.l.t., January 1, 2023.

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

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

The 2022 Atka mackerel ICA for the BS/EAI is 800 metric tons (mt) and the 2022 Atka mackerel total allowable catch allocated to the Amendment 80 cooperative for the BS/EAI is 21,083 mt as established by the final 2022 and 2023 harvest specifications for groundfish in the BSAI (87 FR 11626, March 2, 2022).

The Administrator, Alaska Region, NMFS, has determined that 609 mt of the Atka mackerel ICA for the BS/EAI will not be harvested. Therefore, in accordance with § 679.91(f), NMFS reallocates 609 mt of Atka mackerel from the BS/EAI ICA to the BS/EAI Amendment 80 cooperative allocation in the BSAI. In accordance with § 679.91(f), NMFS will reissue cooperative quota permit for the reallocated Atka mackerel following the procedures set forth in § 679.91(f)(3).

The harvest specifications for Atka mackerel included in the harvest specifications for groundfish in the BSAI (87 FR 11626, March 2, 2022) are revised as follows: 191 mt of Atka mackerel for the BS/EAI ICA and 21,692 mt of Atka mackerel for the Amendment 80 cooperative allocation for the BS/EAI. Table 6 is revised and republished in its entirety as follows:

TABLE 6—FINAL 2022 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2022 Allocation by area		
		Eastern Aleutian district/Bering Sea	Central Aleutian district [5]	Western Aleutian district
TAC	n/a	27,260	16,880	22,341
CDQ reserve	Total	2,917	1,806	2,390
	A	1,458	903	1,195
	Critical Habitat	n/a	542	717
	B	1,458	903	1,195
	Critical Habitat	n/a	542	717
Non-CDQ TAC	n/a	24,343	15,074	19,951
ICA	Total	191	75	20
Jig [6]	Total	118		
BSAI trawl limited access	Total	2,343	1,500	
	A	1,171	750	
	Critical Habitat	n/a	450	
	B	1,171	750	
	Critical Habitat	n/a	450	
Amendment 80 sector	Total	21,692	13,499	19,931
	A	10,846	6,749	9,965
	Critical Habitat	n/a	4,050	5,979
	B	10,846	6,749	9,965
	Critical Habitat	n/a	4,050	5,979

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, ICAs, and jig gear allocation, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; section 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20(a)(8)(ii)(C)(*2*) requires that the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Sections 679.2 and 679.20(a)(8)(i) require that up to 2 percent of the Eastern Aleutian Islands District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS sets the amount of this allocation for 2022 at 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

This will enhance the socioeconomic well-being of harvesters dependent upon Atka mackerel in this area. The Regional Administrator considered the following factors in reaching this decision: (1) the current catch of Atka mackerel ICA in the BS/EAI, (2) the harvest capacity and stated intent on future harvesting patterns of the Amendment 80 cooperative that participates in this BS/EAI fishery.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the harvest of Atka mackerel in the BE/EAI fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 4, 2022.

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

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

Dated: November 7, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–24563 Filed 11–7–22; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 217
Thursday, November 10, 2022

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0991; Project Identifier AD–2022–00155–T]

RIN 2120–AA64

Airworthiness Directives; Learjet, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA is revising a notice of proposed rulemaking (NPRM) that applied to certain Learjet, Inc., Model 45 airplanes. This action revises the NPRM by adding airplanes to the applicability. The FAA is proposing this airworthiness directive (AD) to address the unsafe condition on these products. Since these actions would impose an additional burden over that in the NPRM, the FAA is requesting comments on this SNPRM.

DATES: The comment period for the NPRM published in the **Federal Register** on August 11, 2022 (87 FR 49556), is reopened.

The FAA must receive comments on this SNPRM by December 27, 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–2022–0991; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this SNPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this SNPRM, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone 316–946–2000; fax 316–946–2220; email *ac.ict@aero.bombardier.com;* website *bombardier.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.

FOR FURTHER INFORMATION CONTACT: Adam Hein, Aerospace Engineer, Mechanical Systems and Propulsion Section, FAA, Wichita ACO Branch, 1801 S Airport Road, Wichita, KS 67209; telephone (316) 946–4116; email: *adam.hein@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0991; Project Identifier AD–2022–00155–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may again revise this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this SNPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this SNPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this SNPRM. Submissions containing CBI should be sent to Adam Hein, Aerospace Engineer, Mechanical Systems and Propulsion Section, FAA, Wichita ACO Branch, 1801 S Airport Road, Wichita, KS 67209; telephone (316) 946–4116; email: *adam.hein@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to certain Learjet, Inc., Model 45 airplanes airplanes. The NPRM published in the **Federal Register** on August 11, 2022 (87 FR 49556). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. In the NPRM, the FAA proposed to require revising the existing inspection program to incorporate reduced inspection intervals for the anti-ice manifold assembly.

Related Rulemaking

The FAA issued AD 2001–03–05, Amendment 39–12109 (66 FR 10353, February 15, 2001) (AD 2001–03–05), for certain Learjet Model 45 airplanes. AD 2001–03–05 requires, among other actions, revising the existing Learjet 45 maintenance program to incorporate additional inspections and maintenance practices for the anti-ice manifold assembly, including a 600-hour repetitive inspection interval of an earlier design/part number of the anti-ice manifold. Since the FAA issued AD

2001–03–05, the anti-ice manifold was redesigned and the inspection interval was extended to 1,200 flight hours. The design approval holder subsequently determined that the design improvements made to the anti-ice manifold assembly did not fully address the original issue of vane cracking, so the 1,200-hour inspection on the redesigned part is insufficient. However, the FAA determined that a repetitive inspection interval of 600 flight hours is sufficient to address the unsafe condition. Therefore, this proposed AD would require revising the existing inspection program to incorporate a reduced 600-hour inspection interval for the redesigned part. Accomplishing the required actions in this proposed AD would terminate the requirements of paragraph (c) of AD 2001–03–05.

Actions Since the NPRM Was Issued

Since the FAA issued the NPRM, the FAA determined that the list of affected serial numbers specified in paragraph (c) of the proposed AD was incomplete. The FAA has determined that this proposed AD should apply to airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 18, 2022. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after January 18, 2022 must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

FAA's Determination

The FAA is proposing this AD after determining the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the NPRM. As a result, it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Learjet 40 Maintenance Manual Temporary Revision (TR) 04–33 and Learjet 45 Maintenance Manual TR 04–48, both dated January 18, 2022. This service information specifies reduced inspection intervals for the anti-ice manifold assembly. These documents are distinct since they apply to different airplane configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Proposed AD Requirements in This SNPRM

This proposed AD would require revising the existing inspection program to incorporate reduced inspection intervals for the anti-ice manifold assembly.

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

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 481 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection program revision	1 work-hour × $85 per hour = $85	$0	$85	$40,885

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Learjet, Inc.: Docket No. FAA–2022–0991; Project Identifier AD–2022–00155–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022.

(b) Affected ADs

This AD affects AD 2001–03–05, Amendment 39–12109 (66 FR 10353, February 15, 2001) (AD 2001–03–05).

(c) Applicability

This AD applies to Learjet, Inc., Model 45 (Learjet 40), Model 45 (Learjet 45), Model 45 (Learjet 70), and Model 45 (Learjet 75) airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 18, 2022.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address metal fragments breaking off the anti-ice manifold assembly due to fatigue, which could block a duct in the anti-ice system and result in an unannunciated loss of ice protection and subsequent loss of control of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

(1) For Learjet 40 and 45 variants: Within 60 days after the effective date of this AD, revise the existing inspection program by incorporating the information in Learjet 40 Maintenance Manual Temporary Revision (TR) 04–33 or Learjet 45 Maintenance Manual TR 04–48, both dated January 18, 2022, as applicable. The initial compliance time for the inspection is at the applicable time specified in paragraph (g)(1)(i) or (ii) of this AD.

(i) For airplanes with more than 600 flight hours since the most recent inspection of the anti-ice manifold assembly was performed as of the effective date of this AD: Do the inspection within 100 flight hours or 60 days after the effective date of this AD, whichever occurs first.

(ii) For airplanes with 600 flight hours or less since the most recent inspection of the anti-ice manifold assembly was performed as of the effective date of this AD: Do the inspection within 600 flight hours after the most recent inspection or within 100 flight hours after the effective date of this AD, whichever occurs later.

(2) For Learjet 70 and 75 variants: Within 60 days after the effective date of this AD, revise the existing inspection program to incorporate the information identified in figure 1 to paragraph (g)(2) of this AD. The initial compliance time for the inspection is at the applicable time specified in paragraph (g)(2)(i) or (ii) of this AD.

Figure 1 to paragraph (g)(2) – *Anti-Ice Inspection Tasks*

IRN number	Task Description	Task interval	Model/Serial Effectivity
3010006	**Anti-ice Manifold - Perform Borescope Inspection	600 flight hours (T)	Learjet 70/75: 45-0368, 45-0446 45-0456 through 45-2000, 45-2129, 45-2134 through 45-4000

(i) For airplanes with more than 600 flight hours since the most recent inspection of the anti-ice manifold assembly was performed as of the effective date of this AD: Do the inspection within 100 flight hours or 60 days after the effective date of this AD, whichever occurs first.

(ii) For airplanes with 600 flight hours or less since the most recent inspection of the anti-ice manifold assembly was performed as of the effective date of this AD: Do the inspection within 600 flight hours after the most recent inspection or within 100 flight hours after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions or Intervals

After the existing inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) of this AD.

(i) Terminating Action for Paragraph (c) of AD 2001–03–05

Accomplishing the revision of the existing inspection program required by paragraph (g) of this AD terminates the requirements of paragraph (c) of AD 2001–03–05.

(j) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the airplane can be inspected, provided the airplane is restricted from flying into known icing conditions.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l) of this AD.

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

(l) Related Information

For more information about this AD, contact Adam Hein, Aerospace Engineer, Mechanical Systems and Propulsion Section, FAA, Wichita ACO Branch, 1801 S Airport Road, Wichita, KS 67209; telephone (316) 946–4116; email: *adam.hein@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Learjet 40 Maintenance Manual Temporary Revision 04–33, dated January 18, 2022.

(ii) Learjet 45 Maintenance Manual Temporary Revision 04–48, dated January 18, 2022.

(3) For service information identified in this AD, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone 316–946–2000; fax 316–946–2220; email *ac.ict@aero.bombardier.com;* website *bombardier.com.*

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

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

Issued on November 1, 2022.

Christina Underwood,

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

[FR Doc. 2022–24419 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1303; Project Identifier MCAI–2022–01001–G]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher GmbH & Co. Segelflugzeugbau Gliders

Editorial Note: Proposed rule document 2022–22698 was originally published on pages 64734 through 64737 in the issue of Wednesday, October 26, 2022. In that publication on page 64737, in the first column, under the ''(j) Material Incorporated by Reference'' heading, paragraph ''(3)'', ''November 30, 2022'' should read ''[DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE]''. The corrected document is published here in its entirety.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2022–14–14, which applies to all Alexander Schleicher GmbH & Co. Segelflugzeugbau Model ASW–15 gliders. AD 2022–14–14 requires repetitively inspecting the wing root ribs for cracks, looseness, and damage and replacing any root rib with a crack, a loose rib or lift pin bushing, or any damage. Since the FAA issued AD 2022–14–14, the European Union Aviation Safety Agency (EASA) superseded its mandatory continuing airworthiness information (MCAI) to add all Model ASW–15B gliders to the applicability. This proposed AD is prompted by MCAI originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. This proposed AD would retain the requirements from AD 2022–14–14 of repetitively inspecting the wing root ribs for cracks, looseness, and damage and replacing any root rib with a crack, a loose rib or lift pin bushing, or any damage; and would add the Model ASW–15B gliders to the applicability. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by December 12, 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- 2022–1303; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Alexander Schleicher GmbH & Co. Segelflugzeugbau, Alexander-Schleicher-Str. 1, Poppenhausen, Germany D–36163; phone: +49 (0) 06658 89–0; email: *info@alexander-schleicher.de;* website: *alexander-schleicher.de*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1303; Project Identifier MCAI–2022–01001–G'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022–14–14, Amendment 39–22119 (87 FR 43403, July 21, 2022), (AD 2022–14–14), for all serial-numbered Alexander Schleicher GmbH & Co. Segelflugzeugbau Model ASW–15 gliders. AD 2022–14–14 was prompted by MCAI originated by EASA, which is the Technical Agent for the

Member States of the European Union. EASA issued EASA AD 2021–0187, dated August 9, 2021 (EASA AD 2021–0187), for all Alexander Schleicher GmbH & Co. Segelflugzeugbau Model ASW 15 gliders to correct an unsafe condition identified as wing root rib damage.

AD 2022–14–14 requires repetitively inspecting the wing root ribs for cracks, looseness, and damage and replacing any root rib with a crack, a loose rib or lift pin bushing, or any damage. The FAA issued AD 2022–14–14 to detect and correct damaged root ribs.

Actions Since AD 2022–14–14 Was Issued

Since the FAA issued AD 2022–14–14, Alexander Schleicher GmbH & Co. Segelflugzeugbau determined that Model ASW–15B gliders can also be affected by wing root rib damage. As a result, EASA superseded EASA AD 2021–0187, and issued EASA AD 2022–0146, dated July 11, 2022 (referred to after this as ''the MCAI''). The MCAI states that wing root rib damage can also affect Model ASW–15B gliders and the Model ASW–15B as well as the ASW–15 gliders require repetitively inspecting the wing root ribs and replacing any damaged wing root ribs. The MCAI retains the requirements of EASA AD 2021–0187 and expands the applicability to include all Model ASW–15B gliders.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1303.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Technical Note No. 29, Issue II (TN No. 29, Issue II), dated May 4, 2022. This service information specifies replacement of root ribs.

This proposed AD would also require Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Technical Note No. 29, dated June 28, 2021; Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Repair instruction exchange of wing root ribs according to TN 29, dated June 28, 2021; and Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Maintenance Instruction G, Issue 1, dated June 28, 2021, which the Director of the Federal Register approved for incorporation by reference as of August 25, 2022 (87 FR 43403, July 21, 2022).

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2022–14–14, would add Model ASW–15B gliders to the applicability, and would provide the option of using the service material from AD 2022–14–14 or the updated service material.

Differences Between This Proposed AD and the Service Information

TN No. 29, Issue II, specifies the exchange of page 22A and page 27A of the Flight and Operations Manual for the Model ASW–15 and ASW–15B gliders, respectively, with a new version of those pages and then specifies documenting this change on page 3, Amendments, of the respective manual, and the MCAI, and this proposed AD do not.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 29 gliders of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect root ribs	1 work-hour × $85 per hour = $85	Not Applicable	$85 per product per inspection cycle.	$2,465 per inspection cycle.

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. The agency has no way of determining the number of gliders that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace all four root ribs	8 work-hours × $85 per hour = $680	$1,000	$1,680

Authority for This Rulemaking

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

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

develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive AD 2022–14–14, Amendment 39–22119 (87 FR 43403, July 21, 2022); and

■ b. Adding the following new airworthiness directive:

Alexander Schleicher GmbH & Co. Segelflugzeugbau: Docket No. FAA–2022–1303; Project Identifier MCAI–2022–01001–G.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 12, 2022.

(b) Affected ADs

This AD replaces AD 2022–14–14, Amendment 39–22119 (87 FR 43403, July 21, 2022) (AD 2022–14–14).

(c) Applicability

This AD applies to Alexander Schleicher GmbH & Co. Segelflugzeugbau Model ASW–15 and ASW–15B gliders, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5712, Wing, Rib/Bulkhead.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as wing root rib damage. The FAA is issuing this AD to detect and correct damaged root ribs. The unsafe condition, if not addressed, could result in reduced structural integrity of the wing assembly, which could lead to loss of control of the glider.

(f) Compliance

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

(g) Action

(1) For Model ASW–15 gliders: Within 30 days after August 25, 2022 (effective date of AD 2022–14–14), and thereafter at intervals not to exceed 12 months, inspect all wing root ribs (4 places) for cracks, looseness, and damage, in accordance with the Action section in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Maintenance Instruction G, Issue 1, dated June 28, 2021. If there is a crack in any root rib, a loose rib or lift pin bushing, or any damage, before further flight, replace the root rib in accordance with Action paragraph (B) in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Technical Note No. 29, dated June 28, 2021, and steps 1 through 7 in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Repair instruction exchange of wing root ribs according to TN 29, dated June 28, 2021; or Action paragraph (C) in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Technical Note No. 29, Issue II, dated May 4, 2022, and steps 1 through 7 in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Repair instruction exchange of wing root ribs according to TN 29, dated June 28, 2021.

(2) For Model ASW–15B gliders: Within 30 days after the effective date of this AD and thereafter at intervals not to exceed 12 months, inspect all wing root ribs (4 places) for cracks, looseness, and damage, in accordance with the Action section in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Maintenance Instruction G, Issue 1, dated June 28, 2021. If there is a crack in any root rib, a loose rib or lift pin bushing, or any damage, before further flight, replace the root rib in accordance with Action paragraph (C) in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Technical Note No. 29, Issue II, dated May 4, 2022, and steps 1 through 7 in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Repair instruction exchange of wing root ribs according to TN 29, dated June 28, 2021.

(3) For Model ASW–15 and ASW–15B gliders: Replacing all four wing root ribs is terminating action for the repetitive inspections required by this AD.

(h) 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 § 39.19. In accordance with § 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (i)(2) of this AD or email to: *9-AVS-AIR-730-AMOC@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 local flight standards district office/certificate holding district office.

(i) Additional Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2022–0146, dated July 11, 2022, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1303.

(2) For more information about this AD, contact Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

(j) Material Incorporated by Reference

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

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

(3) The Director of the Federal Register approved the following service information for incorporation by reference on [DATE 35 DAYS AFTER PUBLICATION OF THE *FINAL RULE*].

(i) Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Technical Note No. 29, Issue II dated May 4, 2022.

(ii) [Reserved]

(4) The Director of the Federal Register approved the following service information for incorporation by reference on August 25, 2022 (87 FR 43403, July 21, 2022)

(i) Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Maintenance Instruction G, Issue 1, dated June 28, 2021.

(ii) Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Repair instruction exchange of wing root ribs according to TN 29, dated June 28, 2021.

(iii) Alexander Schleicher GmbH & Co. Segelflugzeugbau ASW 15 Technical Note No. 29, dated June 28, 2021.

(5) For service information identified in this AD, contact Alexander Schleicher GmbH & Co. Segelflugzeugbau, Alexander-Schleicher-Str. 1, Poppenhausen, Germany D–36163; phone: +49 (0) 06658 89–0; email: *info@alexander-schleicher.de;* website: *alexander-schleicher.de.*

(6) You may view this service information at the FAA, Airworthiness Products Section,

Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 October 13, 2022.

Christina Underwood,

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

[FR Doc. R1–2022–22698 Filed 11–9–22; 8:45 am]

BILLING CODE 099–10–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1419; Project Identifier MCAI–2022–01002–R]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Leonardo S.p.a. Model AB139 and AW139 helicopters. This proposed AD was prompted by a report of a damaged tail rotor duplex bearing (TRDB). This proposed AD would require repetitively inspecting certain TRDBs and depending on the results, replacing the TRDB or tail rotor actuator (TRA), or as an option, replacing the sliding control assembly. This proposed AD would also require replacing an affected TRDB with a serviceable TRDB at a specified threshold and prohibit the installation of certain TRDBs or sliding control assemblies on any helicopter, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 27, 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–2022–1419; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@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, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1419; Project Identifier MCAI–2022–01002–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

EASA, the Technical Agent for the Member States of the European Union, issued a series of ADs, with the most recent being EASA Emergency AD 2022–0182–E, dated August 30, 2022 (EASA AD 2022–0182–E), to correct an unsafe condition for all serial-numbered Leonardo S.p.A. Helicopters, formerly Finmeccanica S.p.A, AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation, Model AB139 and AW139 helicopters. EASA AD 2022–0182–E defines the ''affected part'' as TRDB part number (P/N) 3G6430V00151, P/N 3G6430V00152, and P/N 3G6430V00153, the ''affected TRA'' as TRA P/N 3G6730V00731 and P/N 3G6730V00732, and the ''affected assembly'' as sliding control assembly P/N 3G6430A02531. EASA initially issued EASA AD 2022–0152–E, dated July 26, 2022, which was superseded by EASA AD 2022–0182–E.

This proposed AD was prompted by a report of a damaged TRDB. According to EASA, after an investigation, it was determined that the TRDB had been removed from a sliding control assembly and reinstalled on another sliding control assembly, even though Aircraft Maintenance Programme procedures do not allow reinstallation of a removed TRDB. The FAA is proposing this AD to ensure the proper installation of a TRDB and prevent a TRDB from remaining in service beyond its life limit. See EASA AD 2022–0182–E for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0182–E requires repetitively inspecting certain affected parts, and depending on the results, replacing the affected part with a serviceable part, and for certain conditions, replacing the affected TRA or sliding control assembly, as defined therein. EASA AD 2022–0182–E also requires replacing affected parts with serviceable parts at specified thresholds. EASA AD 2022–0182–E also prohibits the installation of certain TRDBs or sliding control assemblies on any helicopter.

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

Other Related Service Information

The FAA also reviewed Leonardo Helicopters Emergency Alert Service Bulletin No. 139–725, Revision A, dated August 9, 2022 (EASB 139–725 Rev A). EASB 139–725 Rev A specifies procedures for inspecting for rotation between the trunnion and pitch control rod, and applying slippage marks; inspecting the visible areas of the TRDB (including seals) for wear, damages, corrosion, particles, grease leakage, grease leakage particles (including magnetic/metallic particles), and roughness in its movement, and accomplishing a TRDB operational test. Finally, EASB 139–725 Rev A specifies procedures for replacing a TRDB and TRA, discarding the removed TRDB, and sending certain photos and information to Leonardo S.p.A.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its emergency AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of the same type designs.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2022–0182–E, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0182–E by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0182–E in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0182–E does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0182–E. Service information referenced in EASA AD 2022–0182–E for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1419 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 80 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Inspecting the TRDB would take up to about 12 work-hours and parts would cost about $100 for an estimated cost of up to $1,120 per helicopter and $89,600 for the U.S. fleet, per inspection cycle. If required, replacing a TRDB would take about 3 additional work-hours and parts would cost about $2,100, for an estimated cost of $2,355 per helicopter. Replacing a TRA would take about 2 additional work-hours and parts would cost about $42,802, for an estimated cost of $42,972 per helicopter. Alternatively, replacing the sliding control assembly would take about 6 work-hours and parts would cost about $11,500, for an estimated cost of $12,010 per helicopter.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.a.: Docket No. FAA–2022–1419; Project Identifier MCAI–2022–01002–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6400, Tail Rotor System.

(e) Unsafe Condition

This AD was prompted by a report of a damaged tail rotor duplex bearing (TRDB) that was improperly installed on a sliding control assembly. The FAA is issuing this AD to ensure the proper installation of a TRDB and prevent a TRDB from remaining in service beyond its life limit. The unsafe condition, if not detected and corrected, could lead to structural failure of the TRDB, possibly resulting in loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) Emergency AD 2022–0182–E, dated August 30, 2022 (EASA AD 2022–0182–E).

(h) Exceptions to EASA AD 2022–0182–E

(1) Where EASA AD 2022–0182–E requires compliance in terms of flight hours, this AD requires using hours time-in-service (TIS).

(2) Where EASA AD 2022–0182–E refers to July 28, 2022 (the effective date of EASA AD 2022–0152–E, dated July 26, 2022) and its effective date, this AD requires using the effective date of this AD.

(3) Where the service information referenced in EASA AD 2022–0182–E specifies discarding certain parts, this AD requires removing those parts from service.

(4) Where the service information referenced in EASA AD 2022–0182–E specifies returning a part to the manufacturer, this AD does not require that action.

(5) The ''Remarks'' section of EASA AD 2022–0182–E does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0182–E specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(k) Additional Information

(1) Refer to EASA AD 2022–0182–E for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1419.

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

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2022–0182–E, dated August 30, 2022.

(ii) Reserved.

(3) For EASA AD 2022–0182–E, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on November 3, 2022.

Christina Underwood,

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

[FR Doc. 2022–24430 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0396; Project Identifier MCAI–2021–01050–T]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA proposes to revise a notice of proposed rulemaking (NPRM) to supersede Airworthiness Directive (AD) 2021–09–13, which applies to certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes. This action revises the NPRM by including additional new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products. Since this action would impose an additional burden over those in the NPRM, the FAA is reopening the comment period to allow the public the chance to comment on these changes.

DATES: The FAA must receive comments on this SNPRM by December 27, 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–2022–0396; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, this SNPRM, 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 that is proposed for incorporation by reference in this SNPRM, 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.* It is also available at *regulations.gov* under Docket No. FAA–2022–0396.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0396; Project Identifier MCAI–2021–01050–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this SNPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this SNPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this SNPRM. Submissions containing CBI should be sent to Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–09–13, Amendment 39–21527 (86 FR 27031, May 19, 2021) (AD 2021–09–13), for certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes. AD 2021–09–13 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2021–09–13 to prevent reduced structural integrity of the airplane.

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD to supersede AD 2021–09–13 that would apply to certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes. The NPRM published in the **Federal Register** on April 8, 2022 (87 FR 20783) (the NPRM). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD 2021–0212, dated September 17, 2021 (EASA AD 2021–0212), to correct an unsafe condition. The NPRM proposed to retain the requirements of AD 2021–09–13. The NPRM also proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

Actions Since the NPRM Was Issued

Since the FAA issued the NPRM, EASA superseded EASA AD 2021–0212 and issued EASA AD 2022–0063, dated April 8, 2022 (EASA AD 2022–0063). EASA AD 2022–0063 was issued because ATR–GIE Avions de Transport published Revision 16 of the ATR 42–400/-500 Time Limits Document (TLD), which included new or more restrictive maintenance tasks and airworthiness limitations. EASA subsequently superseded EASA AD 2022–0063 and issued EASA AD 2022–0200, dated September 26, 2022 (EASA AD 2022–0200) (also referred to after this as the MCAI). EASA AD 2022–0200 states that since EASA AD 2022–0063 was issued, ATR–GIE Avions de Transport published Revision 17 of the ATR 42–400/-500 TLD, which includes new or more restrictive maintenance tasks and airworthiness limitations.

EASA AD 2022–0200 applies to all ATR–GIE Avions de Transport Régional Model ATR42–400 and –500 airplanes. Model ATR42–400 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after July 29, 2022, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

The FAA is proposing this AD to prevent reduced structural integrity of the airplane. You may examine EASA AD 2022–0200 in the AD docket at *regulations.gov* under Docket No. FAA–2022–0396.

Comments

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

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0200 describes new or more restrictive maintenance tasks and airworthiness limitations for airplane structures and for safe life limits of the components.

This proposed AD would also require EASA AD 2020–0263, dated December 1, 2020, which the Director of the Federal Register approved for incorporation by reference as of June 23, 2021 (86 FR 27031, May 19, 2021).

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

FAA's Determination

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

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

Proposed AD Requirements in This SNPRM

This proposed AD would retain the requirements of AD 2021–09–13. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive maintenance tasks and airworthiness limitations, which are specified in EASA AD 2022–0200 described previously, as proposed for incorporation by reference. Any differences with EASA AD 2022–0200 are identified as exceptions in the regulatory text of this AD.

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

Costs of Compliance

The FAA estimates that this proposed AD affects 9 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2021–09–13 to be $7,650 (90 work-hours × $85 per work-hour).

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2021–09–13, Amendment 39–21527 (86 FR 27031, May 19, 2021); and

■ b. Adding the following new AD:

ATR–GIE Avions de Transport Régional: Docket No. FAA–2022–0396; Project Identifier MCAI–2021–01050–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022.

(b) Affected ADs

This AD replaces AD 2021–09–13, Amendment 39–21527 (86 FR 27031, May 19, 2021) (AD 2021–09–13).

(c) Applicability

This AD applies to ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before July 29, 2022.

(d) Subject

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

(e) Unsafe Condition

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

(f) Compliance

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

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

This paragraph restates the requirements of paragraph (j) of AD 2021–09–13, with a new

terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness dated on or before July 7, 2020: 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 2020–0263, dated December 1, 2020 (EASA AD 2020–0263). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2020–0263, With No Changes

This paragraph restates the exceptions specified in paragraph (k) of AD 2021–09–13, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness dated on or before July 7, 2020, the following exceptions apply:

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0263 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2020–0263 specifies revising ''the approved AMP [Aircraft Maintenance Program]'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after June 23, 2021 (the effective date of AD 2021–09–13).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2020–0263 is at the applicable ''thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2020–0263, or within 90 days after June 23, 2021 (the effective date of AD 2021–09–13), whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0263 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0263 does not apply to this AD.

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

This paragraph restates the requirements of paragraph (l) of AD 2021–09–13, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0263.

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

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0200, dated September 26, 2022 (EASA AD 2022–0200). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2022–0200

(1) The requirements specified in paragraph (1) and (2) of EASA AD 2022–0200 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0200 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0200 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0200, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0200 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2022–0200 does not apply to this AD.

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

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0200.

(m) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (n) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(n) Additional Information

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

(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 December 15, 2022.

(i) European Union Aviation Safety Agency (EASA) AD 2022–0200, dated September 26, 2022.

(ii) [Reserved]

(4) The following service information was approved for IBR on June 23, 2021 (86 FR 27031, May 19, 2021).

(i) EASA AD 2020–0263, dated December 1, 2020.

(ii) [Reserved]

(5) For EASA ADs 2022–0200 and 2020–0263, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.*

(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 November 5, 2022.

Christina Underwood,

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

[FR Doc. 2022–24542 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1308; Project Identifier MCAI–2022–00532–T]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

Editorial Note: Proposed rule document 2022–23012 was originally published on pages 65538 through 65541 in the issue of Monday, October 31, 2022. In that publication on page 65541, in the second column, under the ''(m) Material Incorporated by Reference'' heading, paragraph ''(3)'', ''December 5, 2022'' should read ''[DATE 35 DAYS AFTER

PUBLICATION OF THE FINAL RULE]''. The corrected document is published here in its entirety.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2021–04–05, which applies to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2021–04–05 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2021–04–05, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require the actions in AD 2021–04–05 and require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 15, 2022.

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

- *Federal eRulemaking Portal:* Go to *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–2022–1308; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the 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 service information identified in this NPRM, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus*; website *a220world.airbus.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.

FOR FURTHER INFORMATION CONTACT: Gabriel Kim, Aerospace Engineer, Airframe and Propulsion 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:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1308; Project Identifier MCAI–2022–00532–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Gabriel Kim, Aerospace Engineer, Airframe and Propulsion 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.

Background

The FAA issued AD 2021–04–05, Amendment 39–21426 (86 FR 10799, February 23, 2021) (AD 2021–04–05), which applies to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2021–04–05 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. AD 2021–04–05 resulted from a determination that new or more restrictive airworthiness limitations are necessary. The FAA issued AD 2021–04–05 to address reduced structural integrity of the airplane or reduced controllability of the airplane.

Actions Since AD 2021–04–05 Was Issued

Since the FAA issued AD 2021–04–05, the FAA has determined that new or more restrictive airworthiness limitations are necessary.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2022–18, dated April 14, 2022 (TCCA AD CF–2022–18) (also referred to after this as the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after February 3, 2022, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

You may examine the MCAI in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1308.

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

Related Service Information Under 1 CFR Part 51

Airbus Canada Limited Partnership has issued A220 Airworthiness

Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022. This service information describes airworthiness limitations for fuel tank systems, safe life limits, and certification maintenance requirements.

This proposed AD would also require Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, which the Director of the Federal Register approved for incorporation by reference as of March 30, 2021 (86 FR 10799, February 23, 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 proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would retain all of the requirements of AD 2021–04–05. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Revising the existing maintenance or inspection program as proposed in this AD would terminate the retained requirements from AD 2021–04–05 in paragraph (g) of this proposed AD, for Sections 01, ''Airworthiness limitations—Introduction;'' 02, ''Certification maintenance requirements—General;'' 04, ''ALI structural inspections—General;'' 05, ''Life limited parts (systems)—General;'' 06, ''Life limited parts (structures)—General;'' 07, ''Fuel system limitations—General;'' 08, ''Critical design configuration control limitations—General;'' 09, ''Power plant limitations—General;'' 10, ''Structural repair limitations—General;'' and 11, ''Limit of validity—General;'' of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, only.

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

Differences Between This Proposed AD and the MCAI

TCCA AD CF–2022–18 specifies to incorporate all sections of the airworthiness limitations document. This proposed AD would not require the incorporation of Section 03, ''Candidate CMR limitations—General,'' of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022. However, this proposed AD would continue to require the incorporation of Section 03, ''Candidate CMR limitations—General,'' of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020.

Costs of Compliance

The FAA estimates that this proposed AD affects 70 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2021–04–05 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2021–04–05, Amendment 39–21426 (86 FR 10799, February 23, 2021); and

■ b. Adding the following new AD:

Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Docket No. FAA–2022–1308; Project Identifier MCAI–2022–00532–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 15, 2022.

(b) Affected ADs

This AD replaces AD 2021–04–05, Amendment 39–21426 (86 FR 10799, February 23, 2021) (AD 2021–04–05).

(c) Applicability

This AD applies to Airbus Canada Limited Partnership airplanes, certificated in any category, as identified in paragraphs (c)(1) and (2) of this AD.

(1) Model BD–500–1A10 airplanes, serial numbers 50001 and subsequent with an original airworthiness certificate or original export certificate of airworthiness issued on or before February 3, 2022.

(2) Model BD–500–1A11 airplanes, serial numbers 55001 and subsequent with an original airworthiness certificate or original export certificate of airworthiness issued on or before February 3, 2022.

(d) Subject

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

(e) Reason

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

(f) Compliance

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

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

This paragraph restates the requirements of paragraph (g) of AD 2021–04–05, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 18, 2020: Within 90 days after March 30, 2021 (the effective date of AD 2021–04–05), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020. The initial compliance time for doing the tasks is at the time specified in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, or within 90 days after March 30, 2021, whichever occurs later. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (i) of this AD terminates the requirements of this paragraph for Sections 01, ''Airworthiness limitations—Introduction;'' 02, ''Certification maintenance requirements—General;'' 04, ''ALI structural inspections—General;'' 05, ''Life limited parts (systems)—General;'' 06, ''Life limited parts (structures)—General;'' 07, ''Fuel system limitations—General;'' 08, ''Critical design configuration control limitations—General;'' 09, ''Power plant limitations—General;'' 10, ''Structural repair limitations—General;'' and 11, ''Limit of validity—General;'' of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, only.

(h) Retained No Alternative Actions, Intervals, or Critical Design Configuration Control Limitations (CDCCLs), With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2021–04–05, with a new exception. Except as required by paragraph (i) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, 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 (k)(1) of this AD.

(i) New Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Sections 01, ''Airworthiness limitations—Introduction;'' 02, ''Certification maintenance requirements—General;'' 04, ''ALI structural inspections—General;'' 05, ''Life limited parts—General;'' 06, ''Fuel system limitations—General;'' 07, ''Critical design configuration control limitations—General;'' 08, ''Power plant limitations—General;'' 09, ''Structural repair limitations—General;'' and 10, ''Limit of validity—General;'' inclusive of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022. The initial compliance time for doing the tasks is at the time specified in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022, or within 90 days after the effective date of this AD, whichever occurs later.

Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the actions required by paragraph (g) of this AD for Sections 01, ''Airworthiness limitations—Introduction;'' 02, ''Certification maintenance requirements—General;'' 04, ''ALI structural inspections—General;'' 05, ''Life limited parts (systems)—General;'' 06, ''Life limited parts (structures)—General;'' 07, ''Fuel system limitations—General;'' 08, ''Critical design configuration control limitations—General;'' 09, ''Power plant limitations—General;'' 10, ''Structural repair limitations—General;'' and 11, ''Limit of validity—General;'' of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, only.

(j) New No Alternative Actions, Intervals, or CDCCLs

After the existing maintenance or inspection program has been revised as required by paragraph (i) 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 AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) 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 certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. 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 Airbus Canada Limited Partnership's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Additional Information

(1) Refer to TCCA AD CF–2022–18, dated April 14, 2022, for related information. This TCCA AD may be found in the AD docket *regulations.gov* by searching for and locating Docket No. FAA–2022–1308.

(2) For more information about this AD, contact Gabriel Kim, Aerospace Engineer, Airframe and Propulsion 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.*

(m) 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 [DATE 35 DAYS AFTER DATE OF PUBLICATION OF THE *FINAL RULE*].

(i) Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022.

(ii) [Reserved]

(4) The following service information was approved for IBR on March 30, 2021 (86 FR 10799, February 23, 2021).

(i) Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500-3AB48–11400–02, Issue 011.00, dated June 18, 2020.

(ii) [Reserved]

(5) For service information identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus*; website *a220world.airbus.com.*

(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 October 17, 2022.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. R1–2022–23012 Filed 11–9–22; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1411; Project Identifier MCAI–2022–00912–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–21–19, which applies to certain Dassault Aviation Model FALCON 900EX airplanes. AD 2020–21–19 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2020–21–19, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require the actions in AD 2020–21–19 and would require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 27, 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–2022–1411; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the 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 that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2022–1411.
- 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: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1411; Project Identifier MCAI–2022–00912–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *tom.rodriguez@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2020–21–19, Amendment 39–21292 (85 FR 69142, November 2, 2020) (AD 2020–21–19), for certain Dassault Aviation Model FALCON 900EX airplanes. AD 2020–21–19 was prompted by a MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2020–0116, dated May 20, 2020 (EASA AD 2020–0116), to correct an unsafe condition.

AD 2020–21–19 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2020–21–19 to address reduced structural integrity of the airplane. AD 2020–21–19 specifies that accomplishing the actions required by paragraph (g) or (i) of that AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) for Dassault Aviation Model FALCON 900EX airplanes, serial numbers 1 through 96 inclusive, and serial numbers 98 through 119 inclusive. This proposed AD would therefore continue to allow that terminating action.

Actions Since AD 2020–21–19 Was Issued

Since the FAA issued AD 2020–21–19, EASA superseded AD 2020–0116 and issued EASA AD 2022–0144, dated July 11, 2022 (referred to after this as the MCAI), for certain Dassault Aviation Model FALCON 900EX airplanes. The MCAI states that new or more restrictive airworthiness limitations have been developed.

The FAA is issuing this AD to address reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1411.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0144. This service information specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This proposed AD would also require EASA AD 2020–0116, dated May 20, 2020, which the Director of the Federal Register approved for incorporation by reference as of December 7, 2020 (85 FR 69142, November 2, 2020).

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

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, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain all requirements of AD 2020–21–19. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2022–0144 already described, as proposed for incorporation by reference. Any differences with EASA AD 2022–0144 are identified as exceptions in the regulatory text of this AD.

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

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to retain the IBR of EASA AD 2020–0116 and incorporate EASA AD 2022–0144 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0144 and EASA AD 2020–0116 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0144 or EASA AD 2020–0116 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 EASA AD 2022–0144 or EASA AD 2020–0116. Service information required by EASA AD 2022–0144 or EASA AD 2020–0116 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1411 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 88 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2020–21–19 to be $7,650 (90 work-hours × $85 per work-hour).

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–21–19, Amendment 39–21292 (85 FR 69142, November 2, 2020); and

■ b. Adding the following new AD:

Dassault Aviation: Docket No. FAA–2022–1411; Project Identifier MCAI–2022–00912–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 27, 2022.

(b) Affected ADs

(1) This AD replaces AD 2020–21–19, Amendment 39–21292 (85 FR 69142, November 2, 2020) (AD 2020–21–19).

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 900EX airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2022–0144, dated July 11, 2022 (EASA AD 2022–0144).

(d) Subject

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

(e) Unsafe Condition

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

(f) Compliance

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

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

This paragraph restates the requirements of paragraph (i) of AD 2020–21–19, with a new terminating action. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0116, dated May 20, 2020 (EASA AD 2020–0116). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2020–0116, With No Changes

This paragraph restates the exceptions specified in paragraph (j) of AD 2020–21–10, with no changes.

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0116 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2020–0116 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2020–0116 within 90 days after December 7, 2020 (the effective date of AD 2020–21–19).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2020–0116 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2020–0116, or within 90 days after December 7, 2020 (the effective date of AD 2020–21–19), whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0116 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0116 does not apply to this AD.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2020–21–19, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0116.

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

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0144. Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2022–0144

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0144 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0144 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as

applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0144 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0144, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0144 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2022–0144 does not apply to this AD.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0144.

(m) Terminating Action for Certain Actions in AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model FALCON 900EX airplanes, serial numbers 1 through 96 inclusive, and serial numbers 98 through 119 inclusive only.

(n) Additional AD Provisions

The following provisions also apply to this AD:

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

(o) Additional Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *tom.rodriguez@faa.gov.*

(p) 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 [THE EFFECTIVE DATE OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2022–0144, dated July 11, 2022.

(ii) [Reserved]

(4) The following service information was approved for IBR on December 7, 2020 (85 FR 69142, November 2, 2020).

(i) European Union Aviation Safety Agency (EASA) AD 2020–0116, dated May 20, 2020.

(ii) [Reserved]

(5) For EASA ADs 2022–0144 and 2020–0116, 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 these EASA ADs on the EASA website at *ad.easa.europa.eu.*

(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 November 1, 2022.

Christina Underwood,

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

[FR Doc. 2022–24420 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1400

RIN 3076–AA22

Code of Professional Conduct for Labor Mediators

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) hereby publishes this notice of proposed rulemaking to solicit comments on the re-titling of this section and the decision to draft a new code of professional conduct for FMCS mediators.

DATES: Comments must be submitted on or before January 9, 2023.

ADDRESSES: You may submit comments through one of the following methods:

- *Email: register@fmcs.gov.* Include the Code of Professional Conduct for Labor Mediators—Comments in the subject line of the message.
- *Mail:* Code of Professional Conduct for Labor Mediators—Comments c/o Anna Davis, One Independence Square, 250 E St. SW, Washington, DC 20427. Please note that at this time, mail is sometimes delayed. Therefore, we encourage emailed comments.

FOR FURTHER INFORMATION CONTACT: Anna Davis, Deputy General Counsel, Office of General Counsel, Federal Mediation and Conciliation Service, 250 E St. SW, Washington, DC 20427; Office/Fax/Mobile 202–606–3737; *register@fmcs.gov.*

SUPPLEMENTARY INFORMATION: In 1964, a Code of Professional Conduct for Labor Mediators was drafted by a Federal-State Liaison Committee and approved by the Federal Mediation and Conciliation Service (FMCS) and the Association of Labor Mediation Agencies. On April 13, 1968, at 33 FR 5765, the Federal Mediation and Conciliation Service (FMCS) published a final rule entitled ''Code of Professional Conduct for Labor Mediators.'' This final rule adopted and codified the Code of Conduct for Labor Mediators. This Code has not been updated in nearly sixty years and no longer reflects the agency's values, scope of services provided by FMCS mediators, or best practices for conflict management and resolution services. Therefore, FMCS is creating a new code of professional conduct and is updating this rule to reference this internal Code of Professional Conduct for FMCS Mediators.

List of Subjects in 29 CFR 1400

Administrative practice and procedure and Labor management relations.

For the reasons set forth in the preamble, and under the authority 29 U.S.C. 172 of the Taft Harley Act of 1947, FMCS propose to amend 29 CFR chapter XII part 1400 as follows:

PART 1400—STANDARDS OF CONDUCT, RESPONSIBILITIES, AND DISCIPLINE

Subpart B—Employees: Ethical and Other Conduct and Responsibilities

■ 1. The authority citation for part 1400 continues to read as follows:

Authority: E.O. 11222, 30 FR 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104. Section 1400.735–20 also issued under 29 U.S.C. 172.

■ 2. Revise § 1400.724.20 to read as follows:

§ 1400.735–20 Code of Professional Conduct for FMCS Mediators

The Federal Mediation and Conciliation Service has a Code of Professional Conduct for FMCS Mediators. Mediators in the Federal Mediation and Conciliation Service are required to conduct themselves in accordance with the responsibilities outlined therein.

Dated: November 3, 2022.

Anna Davis,

Deputy General Counsel.

[FR Doc. 2022–24406 Filed 11–9–22; 8:45 am]

BILLING CODE 6732–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4213

RIN 1212–AB54

Actuarial Assumptions for Determining an Employer's Withdrawal Liability

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is extending the comment period for a proposed rule that would provide interest rate assumptions that may be used by a plan actuary in determining a withdrawing employer's liability under a multiemployer plan. PBGC published the proposed rule in the **Federal Register** on October 14, 2022, with a comment period that was scheduled to end on November 14, 2022. Since the proposed rule was published, PBGC has received a request from a group of interested parties for PBGC to extend the comment period to provide a total of at least 60 days from October 14, 2022, for them to submit comments on the proposal. In response to this request, PBGC is extending the comment period through December 13, 2022.

DATES: The comment period for the proposed rule published October 14, 2022, at 87 FR 62316, is extended. Comments must be received on or before December 13, 2022, to be assured of consideration.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: reg.comments@pbgc.gov* with subject line ''4213 proposed rule.''
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101.

Commenters are strongly encouraged to submit comments electronically. PBGC expects to have limited personnel available to process comments submitted on paper by mail or hand delivery. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the 4213 proposed rule. All comments received will be posted without change to PBGC's website, *www.pbgc.gov,* including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, or calling 202–326–4040 during normal business hours. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: John Ginsberg (*ginsberg.john@pbgc.gov*), Assistant General Counsel, Multiemployer Law Division, Office of the General Counsel, at 202–229–3714, or Gregory Katz (*katz.gregory@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, at 202–227–8918. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Background

The Pension Benefit Guaranty Corporation's (PBGC) legal authority to prescribe actuarial assumptions and methods for purposes of determining an employer's withdrawal liability comes from section 4213 of the Employee Retirement Income Security Act of 1974 (ERISA), and from section 4002(b)(3) of ERISA, which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA.

Section 4213(a)(2) of ERISA authorizes PBGC to set forth in its regulations actuarial assumptions and methods that may be used by a plan actuary for the purpose of determining an employer's withdrawal liability as an alternative to the assumptions and methods used under section 4213(a)(1).

On October 14, 2022, PBGC published a proposed rulemaking in the **Federal Register** entitled Actuarial Assumptions for Determining an Employer's Withdrawal Liability (the Proposed Rule).[1] The rule was proposed to make clear that use of settlement rates prescribed by PBGC under section 4044 of ERISA, either as a standalone assumption or combined with funding interest assumptions, represents a valid approach to selecting an interest rate assumption to determine withdrawal liability in all circumstances.

The Proposed Rule contains a 30-day comment period, which was scheduled to expire on November 14, 2022. Since the publication of the Proposed Rule, PBGC received a comment from a group of interested parties that expressed concern that the 30-day comment period does not provide commenters with sufficient time to develop and submit comments. The comment requests that PBGC extend the comment period to at least 60 days from the date of publication in the **Federal Register**. After considering the extension request, PBGC has decided that it is appropriate to extend the comment period for this Proposed Rule to a total of 60 total days from the date of publication to provide interested parties with additional time to participate in this rulemaking process. The comment period, therefore, will close on December 13, 2022.

Signed in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–24588 Filed 11–9–22; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 221104–0235]

RTID 0648–XR071

Endangered and Threatened Wildlife and Plants; Listing the Queen Conch as Threatened Under the Endangered Species Act (ESA)

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

[1] 87 FR 62316

ACTION: Proposed rule; reopening of comment period and announcement of public hearing.

SUMMARY: We, NMFS, will hold a public hearing related to our proposed rule published September 8, 2022, to list the queen conch (*Aliger gigas*) as a threatened species under the Endangered Species Act (ESA). We are also reopening the public comment period, which will now close on December 15, 2022.

DATES: The comment period for the proposed rule published on September 8, 2022 (87 FR 55200) is reopened.

Comments: The comment period is reopened from November 7, 2022, to December 15, 2022. Comments must be received by December 15, 2022. Comments received after this date may not be accepted.

Public hearing: The public hearing on the proposed rule will be held online on November 21, 2022, from 5:30 p.m. to 8 p.m. (Eastern Standard Time). Since the hearing will be held online, any member of the public can join by internet or phone regardless of location. Instructions for joining the hearing are provided under **ADDRESSES** below. Alternative languages for persons with limited English proficiency can be made available if requested by November 11, 2022.

ADDRESSES: The public hearing will be conducted as a virtual meeting. You may join the virtual public hearing using a web browser, a mobile app on a phone (app installation required), or by phone (for audio only), as specified on this website: *https://www.fisheries.noaa.gov/species/queen-conch#protected.*

You may submit comments on the proposed rule verbally at the public hearing or in writing by any of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2019–0141 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, might not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Translation services: To request alternative languages for persons with limited English proficiency, contact Orian Tzadik at *orian.tzadik@noaa.gov* to request translation services.

FOR FURTHER INFORMATION CONTACT: Calusa Horn, NMFS, Southeast Regional Office at (727) 551–5782 or *calusa.horn@noaa.gov* or Orian Tzadik, NMFS, Southeast Region Office at (727) 824–5312 or *orian.tzadik@noaa.gov.*

SUPPLEMENTARY INFORMATION: On September 8, 2022 (87 FR 55200), NMFS published a proposed rule to list the queen conch (*Aliger gigas*) as a threatened species under the ESA. In that document, we also announced a 60-day public comment period and indicated that requests for public hearings must be submitted by October 24, 2022. On October 20, 2022, we received a request to hold a public hearing on the proposed rule. In response to that request, we will hold a public hearing as described under the ''Public Hearing'' section of this document. The proposed rule provided for a public comment period that ended on November 7, 2022. We are reopening and extending the public comment period to December 15, 2022, in order to provide the public with additional time to provide comment in a meaningful and constructive manner.

The proposed rule and other materials prepared in support of this action are available at *https://www.fisheries.noaa.gov/species/queen-conch#protected.* We are accepting public comments for the proposed rule through December 15, 2022. Public comments can be submitted as described under **ADDRESSES**.

Public Hearing

The public hearing will be conducted online as a virtual meeting, as specified in **ADDRESSES** above. More detailed instructions for joining the virtual meeting are provided on our web page *https://www.fisheries.noaa.gov/species/queen-conch#protected.* The hearing will begin with a brief presentation by NMFS that will give an overview of the proposed listing under the ESA. After the presentation, but before public comments, there will be a question and answer session during which members of the public may ask NMFS staff questions about the proposed rule. Following the question and answer session, members of the public will have the opportunity to provide oral comments on the record regarding the proposed rule. In the event there is a large attendance, the time allotted per individual for oral comments may be limited. Therefore, anyone wishing to make an oral comment at the public hearing for the record is also encouraged to submit a written comment during the relevant public comment period as described under **ADDRESSES** and **DATES**. All oral comments will be recorded, transcribed, and added to the public comment record for this proposed rule.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 4, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–24512 Filed 11–7–22; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 217
Thursday, November 10, 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

Agricultural Marketing Service

[Doc. No. AMS–FGIS–22–0020]

Award of Designations and Designation Amendments to Class X or Class Y Weighing Services Under the United States Grain Standards Act

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of designation awards.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing designation awards of Amarillo Grain Exchange, Inc. (Amarillo); J.W. Barton Grain Inspection Service, Inc. (Barton); Cairo Grain Inspection Agency, Inc. (Cairo); Champaign-Danville Grain Inspection Departments, Inc. (Champaign); Detroit Grain Inspection Service, Inc. (Detroit); Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa); Enid Grain Inspection Company, Inc. (Enid); Farwell Commodity and Grain Services, Inc. (Farwell Southwest); Fremont Grain Inspection Department, Inc. (Fremont); Keokuk Grain Inspection Service (Keokuk); Louisiana Department of Agriculture and Forestry (Louisiana); Michigan Grain Inspection Services, Inc. (Michigan); Omaha Grain Inspection Service, Inc. (Omaha); Maryland Department of Agriculture (Maryland); North Carolina Department of Agriculture (North Carolina); North Dakota Grain Inspection Services, Inc. (North Dakota); Northeast Indiana Grain Inspection, Inc. (Northeast Indiana); Northern Plains Grain Inspection Service, Inc. (Northern Plains); Plainview Grain Inspection and Weighing Service, Inc. (Plainview); D. R. Schaal Agency, Inc. (Schaal); Sioux City Inspection and Weighing Service Company (Sioux City); State Grain Inspection, Inc. (State Grain); and Utah Department of Agriculture and Food (Utah) to provide official services under the United States Grain Standards Act (USGSA), as amended. The West Lafayette, Indiana area previously serviced by Titus Grain Inspection, Inc. (Titus), will now be serviced by two current official agencies: Champaign and North Dakota, as detailed below. AMS also announces that the designations of Plainview and Sioux City are amended to include Class X and Class Y weighing services.

FOR FURTHER INFORMATION CONTACT: Austyn Hughes, Telephone: (816) 891–0456, or Email: *FGISQACD@usda.gov.*

SUPPLEMENTARY INFORMATION: In the July 7, 2017, **Federal Register** (82 FR 30818), AMS announced the designation of Plainview to provide official services under the USGSA, effective April 1, 2017, to March 31, 2022. Subsequently, Plainview asked AMS to amend their designation to include official weighing services. The USGSA authorizes the Secretary to designate authority to perform official weighing to an agency providing official inspection services within a specified geographic area if such agency is qualified under 7 U.S.C. 79. Under 7 U.S.C. 79(a), AMS evaluated information regarding the designation criteria in 7 U.S.C. 79 and determined that Plainview is qualified to provide official weighing services in their currently assigned geographic area. Therefore, Plainview's designation is amended to include Class X or Class Y weighing within their assigned geographic area, effective January 1, 2022. Interested persons may obtain official services by contacting Plainview at (806) 293–1364.

In the July 15, 2020, **Federal Register** (85 FR 42819), AMS requested applications and public comment for designation to provide official services in the geographic area presently serviced by North Dakota.

In the February 22, 2021, **Federal Register** (86 FR 10530–10531), AMS requested applications and public comment for designation to provide official services in the geographic areas presently serviced by Champaign, Detroit, Eastern Iowa, Enid, Keokuk, Michigan, Omaha, Fremont, Maryland, Amarillo, Cairo, Louisiana, North Carolina, Schaal, and Utah.

In the October 21, 2021, **Federal Register** (86 FR 58247), AMS requested applications for designation and public comment on the quality of service provided by the official agencies in the geographic areas presently serviced by Northeast Indiana, State Grain, Barton, Farwell Southwest, Northern Plains, Plainview, and Sioux City.

The current official agencies for Amarillo; Barton; Cairo; Champaign; Detroit; Eastern Iowa; Enid; Farwell Southwest; Keokuk; Michigan; Omaha; Fremont; Louisiana; Maryland; Northeast Indiana; Northern Plains; North Carolina; North Dakota; Plainview; Schaal; State Grain; and Utah were the only applicants for designation to provide official services in the areas open for designation.

The official agency previously servicing the West Lafayette, Indiana, geographic area (Titus Grain Inspection, Inc. (Titus)) did not seek to reapply for this area. In the June 28, 2021, **Federal Register**, 86 FR 33967, AMS asked persons interested in providing official U.S. Grain Standards Act services in this geographic area to apply. This area was applied for by two applicants: Champaign-Danville Grain Inspection Departments (Champaign) and North Dakota Grain Inspection Service, Inc. (North Dakota), which both applied for the entire West Lafayette, Indiana territory. Both applicants are designated agencies in good standing with AMS and the industry.

In analyzing the applications for the West Lafayette, Indiana, geographic area, AMS evaluated the designation criteria in sec. 7(f) of the USGSA, a recent audit report for each applicant detailing the applicant's performance of the designation criteria and customers' experience with the official service provider, public comments received related to the designation opportunity notice, exceptions previously assigned to the geographic area being applied for, as well as details provided in the application. Applications generally include information on an applicant's business plan to service the area, active licenses and service availability, fees, overall service costs, and proximity to customers and facilities.

Both Champaign and North Dakota are meeting the designation criteria established under the USGSA, and are operating with comparable costs for most service requests. In consideration of this, AMS determined that splitting the West Lafayette, Indiana, geographic area between the two applicants is the best option. By splitting the geographic area between the applicants, and

assigning them to the contiguous areas of their existing designations, they are better able to serve the new territory. Accordingly, each applicant is awarded a newly defined geographic area. The new area allows for an expansion of each applicant's existing geographic area without overlapping boundaries or isolating customers or territory within another official service provider's geographic area. Originally, the West Lafayette, Indiana, geographic area that was designated to Titus included permanent exceptions (designated grain elevators) that were located within both Champaign's and North Dakota's geographic areas. Now, all permanent exception locations originally designated to Titus are awarded to the applicant in whose geographic area the facilities are located.

The territory has been divided and awarded in part to two official agencies: Champaign-Danville Grain Inspection Department, Inc., and North Dakota Grain Inspection Service, Inc. Updated Appendix A geographic areas are listed below:

- Champaign-Danville Grain Inspection Department: *In Indiana: Benton (east of U.S. Route 41), Jasper (south of U.S. Route 24), Newton (east of State Route 55 and south of U.S. Route 24), Pulaski; Warren (east of U.S. Route 41), and White Counties.*
- North Dakota Grain Inspection Service, Inc.: *In Indiana: Carroll (north of State Route 25), Fountain (east of U.S. Route 41), and Tippecanoe Counties.*

In the October 22, 2021, notice published in the **Federal Register** (86 FR 58247), AMS asked persons interested in providing official U.S. Grain Standards Act services to the Sioux City, Iowa, designation area to apply. AMS received two applications for this area: Sioux City and Schaal. Sioux City applied for the entire geographic area, and Schaal applied for elevators that were designated under Sioux City as permanent exceptions but physically located within Schaal's geographic area description. Both applicants are designated agencies in good standing with AMS and the industry. The dually applied-for elevators include:

- In Iowa, Maxyield Coop—Algona, Kossuth County; Stateline Coop—Burt, Kossuth County; Gold-Eagle—Goldfield and North Central Coop—Holmes, Wright County; Agvantage F.S.—Chapin, Franklin County; and Five Star Coop—Rockwell, Cerro Gordo County.

In analyzing the applications for the Sioux City, Iowa, geographic area, AMS evaluated the designation criteria in sec. 7(f) of the USGSA, a recent audit report for each applicant detailing the applicant's performance of the designation criteria and customers' experience with the official service provider, public comments received related to the designation opportunity notice, and exceptions previously assigned to the geographic area being applied for, as well as details provided in the application. Applications generally include information on an applicant's business plan to service the area, active licenses and service availability, fees, overall service costs, and proximity to customers and facilities.

AMS determined that awarding the six specified elevator locations to Schaal and the remaining geographical area to the incumbent, Sioux City, is the best manner to continue servicing the area. Of the six elevator locations identified, only Stateline Coop and AgVantage FS are currently active. The six forementioned elevator locations are physically located within the boundaries of Schaal's geographic area description, since this designation area commenced as noted in the May 21, 1980, notice in the **Federal Register**, 45 FR 34245. However, these elevator locations were designated to other entities at the time the original geographic areas were assigned. Over the past four decades, the original servicing entities have changed and ultimately were replaced by Sioux City.

Through an FGIS pilot program in 1995, and per customer request, Schaal was permitted to service the two active elevators. Subsequently, the 2018 Appropriations Bill again affected how exceptions were managed, and Schaal was permitted to continue servicing those elevators under non-use-of-service exceptions as requested by its customers.

At the time the Sioux City, Iowa, designation area opportunity notice published, Sioux City was not providing official services for any of the six specified elevator locations located within Schaal's geographic area description. Current customers were satisfied with Schaal's service. Considering all available information and factors, as identified above, AMS determined that these excepted elevators would be awarded and designated to Schaal as applied for and as currently being serviced.

Effective April 1, 2022, these elevators were removed from Sioux City's designation area and added to Schaal's designation. The remaining geographic area was awarded to Sioux City effective April 1, 2022.

AMS evaluated the designation criteria in sec. 7(f) of the USGSA (7 U.S.C. 79(f)) and determined, based on its designation reviews, that the following agencies are qualified to provide official services in the specific geographic areas and timeframes noted below:

Official agency	Designated area is described in:	Designation start	Designation end
Amarillo Grain Exchange, Inc., Amarillo, TX, 806–372–8511.	86 FR 10530 (2/22/2021)	10/1/2021	9/30/2026
J.W. Barton Grain Inspection Service, Inc., Owensboro, KY, 270–683–0616.	86 FR 58247 (10/21/2021)	4/1/2022	3/31/2027
Cairo Grain Inspection Agency, Inc., Cairo, IL, 618–734–0689.	86 FR 10530 (2/22/2021)	10/1/2021	9/30/2026
Champaign-Danville Grain Inspection Department, Urbana, IL 217–344–9306.	See Appendix A in this notice	4/1/2021	3/31/2026
Detroit Grain Inspection Service, Inc., Sandusky, MI, 810–404–3786.	86 FR 10530 (2/22/2021)	4/1/2021	3/31/2026
Eastern Iowa Grain Inspection Company, Inc., Davenport, IA, 563–322–7149.	86 FR 10530 (2/22/2021)	4/1/2021	3/31/2026
Enid Grain Inspection Company, Enid, OK, 580–233–1122.	86 FR 10530 (2/22/2021)	4/1/2021	3/31/2026
Farwell Commodity and Grain Services, Inc., Casa Grande, AZ, 520–560–1674.	86 FR 58247 (10/21/2021)	4/1/2022	3/31/2027
Fremont Grain Inspection Department, Inc., Fremont, NE, 402–721–1270.	86 FR 10530 (2/22/2021)	7/1/2021	6/30/2026

Official agency	Designated area is described in:	Designation start	Designation end
Keokuk Grain Inspection Service, Keokuk, IA, 319–524–4695.	86 FR 10530 (2/22/2021)	4/1/2021	3/31/2025
Louisiana Department of Agriculture and Forestry, Baton Rouge, LA, 318–428–0116.	86 FR 10530 (2/22/2021)	10/1/2021	9/30/2026
Maryland Department of Agriculture, Annapolis, MD, 410–841–5769.	86 FR 10530 (2/22/2021)	7/1/2021	6/30/2026
Michigan Grain Inspection Services, Inc., Marshall, MI, 269–781–2711.	86 FR 10530 (2/22/2021)	4/1/2021	3/31/2024
North Carolina Department of Agriculture, Raleigh, NC, 919–733–4491.	86 FR 10530 (2/22/2021)	10/1/2021	9/30/2026
North Dakota Grain Inspection Services, Inc., Fargo, ND, 701–293–7420.	See Appendix A in this notice	1/1/2021	12/31/2025
Northeast Indiana Grain Inspection, Inc., Decatur, IN, 260–341–7497.	86 FR 58247 (10/21/2021)	1/1/2022	12/31/2026
Northern Plains Grain Inspection Service, Inc., Grand Forks, ND, 701–772–2414.	86 FR 58247 (10/21/2021)	4/1/2022	3/31/2027
Omaha Grain Inspection Service, Inc., Council Bluffs, IA, 712–256–2590.	86 FR 10530 (2/22/2021)	4/1/2021	3/31/2026
Plainview Grain Inspection and Weighing Service, Inc., Plainview, TX, 806–293–1364.	86 FR 58247 (10/21/2021)	4/1/2022	3/31/2027
D.R. Schaal Agency, Inc., Belmond, IA, 641–444–3122.	See Appendix A in this notice	10/1/2021	9/30/2026
Sioux City Inspection and Weighing Service Company, Sioux City, IA, 712–255–0959.	See Appendix A in this notice	4/1/2022	3/31/2027
State Grain Inspection, Inc., Savage, MN, 952–808–8566.	86 FR 58247 (10/21/2021)	1/1/2022	12/31/2026
Utah Department of Agriculture and Food, Ogden, UT, 801–392–2292.	86 FR 10530 (2/22/2021)	10/1/2021	9/30/2026

Sec. 7(f) of the USGSA authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). A designated agency may provide official inspection services and/or Class X or Class Y weighing services at locations other than port locations. Under sec. 7(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in sec. 7(f) of the USGSA. See also 7 CFR 800.196 for further information and guidance. If you would like to view the applications for these areas, please contact *FGISQACD@usda.gov.*

Please note that sampling, weighing, and inspection services may be offered by designated agencies under the Agricultural Marketing Act of 1946 for other commodities under the auspices of FGIS through separate cooperative agreements with AMS. The service area for such cooperative agreements mirrors the USGSA designation area. For further information, see 7 U.S.C. 1621 *et seq.* or contact *FGISQACD@usda.gov.*

Appendix A—Geographic Area Updates

Following are the updated geographic area descriptions, which are included as ''Appendix A'' in the documentation provided to those agencies designated to provide services in these areas.

Champaign:

Appendix A—Assigned Geographic Area

Champaign-Danville Grain Inspection Departments, Inc.

Designation Issued: April 01, 2021
Designation Amended: May 31, 2022

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Illinois, Indiana, and Michigan, is assigned to this official agency.

In Illinois

Bounded on the north by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason; bounded on the east by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16; bounded on the south by State Route 16 west to the eastern Macoupin County line; the eastern, southern, and western Macoupin County lines; the southern and western Greene County lines; the southern Pike County line; and bounded on the west by the western Pike County line west to U.S. Route 54; U.S. Route 54 northeast to State Route 107; State Route 107 northeast to State Route 104; State Route 104 east to the western Morgan County line; the western Morgan, Cass, and Schuyler County lines.

In Illinois and Indiana

Bounded on the north by the northern Livingston County line from State Route 47; the eastern Livingston County line to the northern Ford County line; the northern Ford and Iroquois County lines east to Interstate 57; Interstate 57 north to the northern Will County line; bounded on the north by the northern Will County line from Interstate 57 east to the Illinois-Indiana State line; the Illinois-Indiana State line north to the northern Lake County line; the northern Lake, Porter, Laporte, St. Joseph, and Elkhart County lines; bounded on the east by the eastern and southern Elkhart County lines; the eastern Marshall County line; bounded on the south by the southern Marshall County line; the eastern and southern Pulaski County lines; the eastern and southern White County lines; the eastern Benton County line; the eastern and southern Warren County lines west to U.S. Route 41; bounded on the east by U.S. Route 41 south to the northern Parke County line; the northern Parke and Putnam County lines; the eastern Putnam, Owen, and Greene County lines; bounded on the south by the southern Greene County line; the southern Sullivan County line west to U.S. Route 41(150); U.S. Route 41(150) south to U.S. Route 50; U.S. Route 50 west across the Indiana-Illinois State line to Illinois State Route 33; Illinois State Route 33 north and west to the Western Crawford County line; and bounded on the west by the western Crawford and Clark County lines; the southern Coles County line; the western Coles and Douglas County lines; the western Champaign County line north to Interstate 72; Interstate 72 southwest to the Piatt County line; the western Piatt County line; the southern McLean County line west to a point 10 miles west of the western

Champaign County line, from this point through Arrowsmith to Pontiac along a straight line running north and south which intersects with State Route 116; State Route 116 east to State Route 47; State Route 47 north to the northern Livingston County line.

In Michigan

Berrien, Cass, and St. Joseph Counties.

Champaign's assigned geographic area does not include the export port locations inside Champaign's area, which are serviced by FGIS.

The following grain elevators are part of this geographic area assignment. In Mid-Iowa Grain Inspection Inc.'s area: Okaw Cooperative, Cadwell, Moultrie County; ADM (3 elevators), Farmer City, Dewitt County; and Topflight Grain Company, Monticello, Piatt County, Illinois, and East Lincoln Farmers Grain Co., Lincoln, Logan County, Illinois.

North Dakota

Appendix A—Assigned Geographic Area

North Dakota Grain Inspection Service, Inc.

Designation Issued: January 01, 2021
Designation Amended: May 31, 2022

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Illinois, Indiana, Michigan, Minnesota, North Dakota, and Ohio is assigned to this official agency.

In Illinois

Bounded on the east by the eastern Cumberland County line; the eastern Jasper County line south to State Route 33; State Route 33 east-southeast to the Indiana-Illinois State line; the Indiana-Illinois State line south to the southern Gallatin County line; bounded on the South by the southern Gallatin, Saline, and Williamson County lines; the southern Jackson County line west to U.S. Route 51; U.S. Route 51 north to State Route 13; State Route 13 northwest to State Route 149; State Route 149 west to State Route 3; State Route 3 northwest to State Route 51; State Route 51 south to the Mississippi River; and bounded on the west by the Mississippi River north to the northern Calhoun County line; bounded on the north by the northern and eastern Calhoun County lines; the northern and eastern Jersey County lines; the northern Madison County line; the western Montgomery County line north to a point on this line that intersects with a straight line, from the junction of State Route 111 and the northern Macoupin County line to the junction of Interstate 55 and State Route 16 (in Montgomery County); from this point southeast along the straight line to the junction of Interstate 55 and State Route 16; State Route 16 east-northeast to a point approximately 1 mile northeast of Irving; a straight line from this point to the northern Fayette County line; the northern Fayette, Effingham, and Cumberland County lines.

In Indiana

Bartholomew, Blackford, Boone, Brown, Carroll, Cass, Clinton, Delaware, Fayette, Fountain (east of U.S. Route 41), Fulton (bounded on east by eastern Fulton County line south to State Route 19; State Route 19 south to State Route 114; State Route 114 southeast to eastern Fulton County line), Grant, Hamilton, Hancock, Hendricks, Henry, Howard, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Randolph, Richmond, Rush (north of State Route 244), Shelby, Tippecanoe, Tipton, Union, and Wayne Counties.

In Michigan

Bounded on the west by State Route 127 at the Michigan-Ohio State line north to State Route 50; bounded on the north by State Route 50 at State Route 127 east to the Michigan State line; the Michigan state line south to the Michigan-Ohio State line.

In Minnesota

Koochiching, St. Louis, Lake, Cook, Itasca, Norman, Mahnomen, Hubbard, Cass, Clay, Becker, Wadena, Crow Wing, Aitkin, Carlton, Wilkin, and Otter Tail Counties, except those export port locations within the State, which are serviced by FGIS.

In North Dakota

Bounded on the north by the northern Steele County line from State Route 32 east; the northern Steele and Trail County lines east to the North Dakota State line; bounded on the east by the eastern North Dakota State line; bounded on the south by the southern North Dakota State line west to State Route 1; and bounded on the west by State Route 1 north to Interstate 94; Interstate 94 west to State Route 1; State Route 1 north to State Route 200; State Route 200 east to State Route 45; State Route 45 north to State Route 32; State Route 32 north.

In Ohio

The northern Ohio State line east to the to the Ohio Pennsylvania State line; bounded on the east by the Ohio-Pennsylvania State line south to the Ohio River; bounded on the south by the Ohio River south-southwest to the western Scioto County line; and bounded on the west by the western Scioto County line north to State Route 73; State Route 73 northwest to U.S. Route 22; U.S. Route 22 west to U.S. Route 68; U.S. Route 68 north to Clark County; the northern Clark County line west to Valley Pike Road; Valley Pike Road north to State Route 560; State Route 560 north to U.S. 36; U.S. 36 west to eastern Miami County Line; eastern Miami County Line to northern Miami County Line; northern Miami County Line west to Interstate 75; Interstate 75 north to State Route 47; State Route 47 northeast to U.S. Route 68 (including all of Sidney, Ohio); U.S. Route 68 north to the southern Hancock County line; the southern Hancock County line west to the western Hancock, Wood and Lucas County lines north to the Michigan-Ohio State line; the Michigan-Ohio State line west to State Route 127; plus all of Darke County.

North Dakota's assigned geographic area does not include the export port locations inside the State of Ohio area which are serviced by FGIS.

Schaal

Appendix A—Assigned Geographic Area

D.R. Schaal Agency, Inc.

Designation Issued: October 01, 2021
Designation Amended: April 01, 2022

Pursuant to Section 7(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Georgia, Iowa, Minnesota, New Jersey, New York, and South Carolina, is assigned to this official agency.

In Georgia

The entire State, except those export port locations within the State, which are serviced by FGIS.

In Iowa

Bounded on the north by the northern Kossuth County line from U.S. Route 169; the northern Winnebago, Worth, and Mitchell County lines; bounded on the east by the eastern Mitchell County line; the eastern Floyd County line south to B60; B60 west to T64; T64 south to State Route 188; State Route 188 south to C33; bounded on the south by C33 west to T47; T47 north to C23; C23 west to S56; S56 south to C25; C25 west to U.S. Route 65; U.S. Route 65 south to State Route 3; State Route 3 west to S41; S41 south to C55; C55 west to Interstate 35; Interstate 35 southwest to the southern Wright County line; the southern Wright County line west to U.S. Route 69; U.S. Route 69 north to C54; C54 west to State Route 17; and bounded on the west by State Route 17 north to the southern Kossuth County line; the Kossuth County line west to U.S. Route 169; U.S. Route 169 north to the northern Kossuth County line.

In Minnesota

Faribault, Freeborn, and Mower Counties.

In New Jersey

The entire State, except those export port locations within the State, which are serviced by FGIS.

In New York

The entire State, except those export port locations within the State, which are serviced by FGIS.

In South Carolina

Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Dorchester, Edgefield, Fairfield, Georgetown, Greenwood, Hampton, Jasper, Laurens, Lexington, McCormick, Newberry, Oconee, Orangeburg, Richland, Saluda, Sumter, and Williamsburg Counties. Export port locations within the State, are serviced by FGIS.

Sioux City

Appendix A—Assigned Geographic Area

Sioux City Inspection and Weighing Service Company

Designation Issued: April 01, 2022

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the States of Iowa, Minnesota, Nebraska, and South Dakota, is assigned to this official agency.

In Iowa

Bounded on the north by the northern Iowa State line from the Big Sioux River east to U. S. Route 169; bounded on the east by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; northern Hamilton County line east to Interstate 35; Interstate 35 northeast to C55; C55 east to S41; S41 north to State Route 3; State Route 3 to east U.S. Route 65; U.S. Route 65 north to C25; C25 east to S56; S56 north to C23; C23 east to T47; T47 south to C33; C33 east to T64; T64 north to B60; B60 east to U.S. Route 218; U.S. Route 218 north to Chickasaw County; the western Chickasaw County line; and the western and northern Howard County lines; bounded on the east by the eastern Howard and Chickasaw County lines; the eastern and southern Bremer County lines; V49 south to D38; D38 west to State Route 21; State Route 21 south to State Route 8; State Route 8 west to U.S. Route 63; U.S. Route 63 south to Interstate 80; Interstate 80 east to the Poweshiek County line; the eastern Poweshiek, Mahaska, Monroe, and Appanoose County lines; bounded on the south by the southern Appanoose, Wayne, Decatur, Ringgold, and Taylor County lines; bounded on the west by the western Taylor County line; the southern Montgomery County line west to State Route 48; State Route 48 north to M47; M47 north to the Montgomery County line; the northern Montgomery County line; the western Cass and Audubon County Lines; the northern Audubon County line east to U.S. Route 71; U.S. Route 71 north to the southern Sac and Ida County lines; the eastern Monona County line south to State Route 37; State Route 37 west to State Route 175; State Route 175 west to the Missouri River; and bounded on the west by the Missouri River north to the Big Sioux River; the Big Sioux River north to the northern Iowa State line.

In Minnesota

Yellow Medicine, Renville, Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, Jackson, and Martin Counties.

In Nebraska

Cedar, Dakota, Dixon, Pierce (north of U.S. Route 20), and Thurston Counties.

In South Dakota

Bounded on the north by State Route 44 (U.S. 18) east to State Route 11; State Route 11 south to A54B; A54B east to the Big Sioux River; Bounded on the East by the Big Sioux River; and bounded on the south and west by the Missouri River. The following grain elevators are not part of this geographic area assignment and are assigned to Omaha Grain Inspection Service, Inc.: Scoular Elevator, Elliot, Montgomery County and two Scoular elevators, Griswold, Cass County, Iowa.

Authority: 7 U.S.C. 71–87k.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–24519 Filed 11–9–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FGIS–20–0061]

Mycotoxin Test Kit Design Specifications and Performance Criteria

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing its decisions regarding proposed changes to its mycotoxin test kit performance criteria after evaluating public comments received during prior publications in the **Federal Register** (85 FR 82427 and 86 FR 10531).

DATES: Applicable: November 10, 2022.

ADDRESSES: For access to the AMS mycotoxin test kit criteria, go to *https://www.ams.usda.gov/services/fgis/standardization/tke.*

FOR FURTHER INFORMATION CONTACT: Thomas A. Weber, Analytical Chemistry Branch Chief, Technology and Science Division, Federal Grain Inspection Service, AMS, USDA, 816–702–3811; Telephone: (816) 702–3811, or Email: *Thomas.A.Weber@usda.gov.*

SUPPLEMENTARY INFORMATION: Mycotoxins are toxic chemicals produced by certain fungal species under favorable environmental conditions. Many countries [1] have set maximum allowable concentration levels for specific mycotoxins in food and feed to ensure the safety of consumers. Mycotoxin levels are a critical factor in the trade of grain and quantitative mycotoxin testing is an integral part of buyer-seller contract specifications. Under the authority of the United States Grains Standards Act (7 U.S.C. 71–87k), as amended, and the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, AMS provides official mycotoxin testing services throughout the United States for domestic and export grains, oilseeds, and processed-grain commodities. Official testing services are provided for aflatoxins, deoxynivalenol, fumonisins, ochratoxin A, and zearalenone. Testing at field locations requires rapid, inexpensive, and accurate methods to effectively assess US grain quality. An essential part of ensuring the quality of official mycotoxin testing is the AMS test kit evaluation program, through which test kits are evaluated and certified for conformance to specific criteria. Only test kits having AMS certification are approved for official mycotoxin testing. AMS establishes the test kit performance criteria and periodically updates them to improve testing accuracy and to meet the official mycotoxin testing program's operational needs.

AMS requested comments from test kit manufacturers and other stakeholders on proposed changes to AMS mycotoxin test kit criteria through a notice that was published in the **Federal Register** at 85 FR 82427 on December 18, 2020. The original 30-day comment period provided in the notice closed on January 19, 2021. Comments were received from ten stakeholders requesting an extension of the comment period. AMS reopened the comment period in the **Federal Register** at 86 FR 10531 on February 22, 2021, for 30 days to allow interested persons additional time to review and comment on the notice. The second comment period closed on March 24, 2021. A summary of the public comments, decisions, and future considerations follows.

Minimum Ranges of Conformance

For each mycotoxin, AMS has established a minimum range of concentrations that must be covered in the test kit's scope and conform to AMS accuracy requirements. This range is referred to as the minimum range of conformance. AMS proposed to expand the minimum ranges for fumonisins, ochratoxin A, and zearalenone test kits to meet the current and anticipated future testing needs of the grain industry.

AMS proposed expanding the current minimum range for fumonisins from 0.50–30 parts per million (ppm) to 0.50–100 ppm to provide testing up to the U.S. Food and Drug Administration's highest industry guidance level in corn and corn products. Comments were received from eleven stakeholders. Four stakeholders endorsed this proposal, while two of the four supported the change for corn only. Three stakeholders were against the change, because the grain has no market value at such high levels or because of the difficulty in sourcing large quantities of contaminated grains with 100 ppm fumonisins. Six stakeholders were

[1] Worldwide regulations for mycotoxins in food and feed in 2003 [Online]. Food and Agriculture Organization of the United Nations, Rome, Italy, 2004. *https://www.fao.org/3/y5499e/y5499e00.htm* (accessed 5/24/2022).

against this change due to the risk for increased variation in the test results and suggested instead that narrowing the ranges would reduce variability. Five of these stakeholders recommended that the evaluation of test kits at the 100-ppm level should be optional. AMS believes that there may be limitations in test kit calibration linearity and additional sample preparation steps that could lead to increased variation. As a result, AMS will not implement proposed change at this time. AMS will follow up with test kit manufacturers to further assess the risk of increased variation and its impact.

To allow for expected testing variation below the maximum concentration levels of 5 parts per billion (ppb), required by a standard set by the Codex Alimentarius Commission, AMS proposed to expand the minimum range of concentrations for ochratoxin A from 5.0–100 ppb to 1.0–100 ppb. AMS was interested in comments on whether the maximum limit should also be lowered from 100 ppb to 20 ppb, resulting in a narrower minimum range (*i.e.,* 1.0–20 ppb). Comments were received from ten stakeholders. None of the stakeholders supported the AMS proposal to expand the minimum range. Five stakeholders asserted that the change would require test kits to be as accurate as the reference method, which they thought was an unreasonable expectation. However, no technical data was provided by the manufacturers to support that claim. Additionally, three stakeholders expressed concern that producing a 1.0 ppb ochratoxin A reference material may be difficult. However, five stakeholders supported an alternative lower concentration limit of 2–3 ppb and an upper limit of 20 ppb. AMS needs to gather and evaluate additional information from test kit manufacturers on their claim regarding the limitations of technology to quantify ochratoxin A at lower levels prior to setting a new limit. Therefore, AMS will not implement its proposed change at this time.

International regulators, including the European Union, have established maximum concentration levels for zearalenone at 100 ppb in cereals and other grains. To allow for expected testing variation below this regulatory limit, AMS proposed to expand the minimum range of concentrations from 100–1000 ppb to 20–1000 ppb. Comments were received from ten stakeholders. None of the stakeholders supported the AMS proposal. Five stakeholders supported changing the lower limit to 50 ppb, while two of the five also wanted an upper limit of 500 ppb. Four stakeholders requested that the required range of concentrations be narrower due to the potential for increased variability. AMS believes that there may be limitations in test kit calibration linearity and additional sample preparation steps that could lead to increased variation. As a result, AMS will not implement proposed change at this time. AMS will follow up with test kit manufacturers to further assess the risk of increased variation and its impact.

Evaluation of Mycotoxin Test Kit Accuracy

AMS proposed to change the way the acceptable ranges for test results are calculated to align with the Horwitz-Thompson equation, which is an internationally accepted benchmark for evaluating analytical method performance. Comments were received from fourteen stakeholders. None of the stakeholders supported the AMS proposal. Four stakeholders were against the proposal because of perceived limitations of applying the Horwitz-Thompson equation to immunochemistry-based methods. Four stakeholders stated that the proposed acceptable ranges would result in more complex and longer test procedures, leading to higher variation. Six stakeholders stated that increasing the precision in test kit results would be most effective by minimizing the variation introduced by sample preparation, which includes grinding to a smaller particle size, adjusting the sample size, and using uniform sample extraction procedures. Seven stakeholders stated that narrowing the required concentration ranges would result in more accurate test results. AMS believes that the Horwitz-Thompson model should be the benchmark for the evaluation of mycotoxin test kits, since countries importing U.S. grain worldwide utilize standardized mycotoxin testing methods with performance characteristics that conform to this model. Providing mycotoxin test kits that meet this benchmark would increase the confidence of importing countries in AMS testing services, thereby facilitating exports of U.S. grain. However, AMS recognizes the concerns expressed through the comments received and will not implement the proposed changes at this time in order to further investigate how to incorporate the Horwitz-Thompson model into the mycotoxin test kit criteria.

Number of Readers

Mycotoxin concentrations are determined by an electronic instrument, often referred to as a ''reader'' by test kit manufacturers and users. AMS has observed variation in test results during side-by-side comparisons of identical reader models. In effort to increase the robustness of the evaluation, AMS proposed to use three separate readers during the evaluation process. Three readers were chosen as a practical number, because three analysts are participating in the evaluation and each could use a separate reader for expediency. Comments were received from five stakeholders, and all supported the AMS proposal to use three separate readers during the evaluation process. AMS will implement this requirement in the mycotoxin test kit program to account for variability in readers.

Test Kit Manufacturer Analysts

AMS proposed to update the method performance criteria to allow up to two analysts from the test kit manufacturer to participate in the verification study conducted at the AMS laboratory. Comments were received from five stakeholders, all of whom supported this AMS proposal. AMS will implement this option in the mycotoxin test kit program to promote transparency in the verification process.

Extraction Method

AMS proposed that the extraction method used for the primary grain(s) should be the same as that used for additional commodities. This change would provide evidence that the method can generate accurate results for both naturally contaminated and artificially fortified grains and commodities. Comments were received from five stakeholders. None of the stakeholders supported the AMS proposal. Two stakeholders recommended that naturally contaminated samples be required in the evaluation of additional commodities. AMS recognizes that artificially fortified samples do not truly represent naturally contaminated samples, and therefore, not the most robust method for evaluating test kit performance. AMS has allowed for artificially fortified samples due to the lack of the natural occurrence of specific mycotoxins in particular commodities. Requiring the use of naturally contaminated samples is anticipated to reduce the number of additional grains and commodities for which AMS can provide testing services. AMS will not implement the proposed change at this time in order to further engage industry stakeholders on the impacts associated with continuing to allow the use of artificially fortified samples versus

requiring naturally contaminated samples in evaluating test kit performance.

Other Comments

Seven stakeholders made comments, which were beyond the scope of the changes proposed by AMS. These comments included recommendations to modify the minimum ranges of concentrations for aflatoxins and deoxynivalenol, to change the test kit certificate expiration period from three to five years, to revise the study design for the performance verification, to require all participants to use reference materials from one provider, and for AMS to provide guidance or recommendations on extraction procedures. AMS may engage stakeholders for further information about these recommendations and consider them in future program improvements.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–24520 Filed 11–9–22; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0030]

State University of New York College of Environmental Science and Forestry; Availability of a Draft Environmental Impact Statement and Draft Plant Pest Risk Assessment for Determination of Nonregulated Status for Blight-Tolerant Darling 58 American Chestnut (Castanea dentata) Developed Using Genetic Engineering

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft environmental impact statement (EIS) and draft plant pest risk assessment (PPRA) evaluating the potential environmental impacts and plant pest risk that may result from the approval of a petition for nonregulated status for blight-tolerant Darling 58 American chestnut (*Castanea dentata*) from the State University of New York College of Environmental Science and Forestry. The trees have been developed using genetic engineering to express an oxalate oxidase enzyme from wheat as a defense against the fungal pathogen *Cryphonectria parasitica,* making Darling 58 American chestnut tolerant to chestnut blight. We are making the draft EIS and draft PPRA available for public review and comment.

DATES: We will consider all comments that we receive on or before December 27, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2020–0030 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0030, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The petition and any comments we receive on this docket may be viewed at *Regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Subray Hegde, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1238; (301) 851–3901; email: *subray.hegde@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act, as amended (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Movement of Organisms Modified or Produced Through Genetic Engineering,'' regulate, among other things, the importation, interstate movement, or release into the environment of organisms modified or produced through genetic engineering that are plant pests or pose a plausible plant pest risk.

The Animal and Plant Health Inspection Service (APHIS) issued a final rule, published in the **Federal Register** on May 18, 2020 (85 FR 29790–29838, Docket No. APHIS–2018–0034),[1] revising 7 CFR part 340. However, this petition (APHIS Petition Number 19–309–01p)[2] for a determination of nonregulated status is being evaluated in accordance with the regulations at 7 CFR 340.6 (2020), which were effective at the time it was received by APHIS on January 21, 2020.

APHIS received a petition from the State University of New York College of Environmental Science and Forestry (ESF) seeking a determination of nonregulated status for blight-tolerant Darling 58 American chestnut (*Castanea dentata*). The petition states that Darling 58 American chestnut is unlikely to pose a plant pest risk and, therefore, should not be regulated under APHIS' regulations in 7 CFR part 340.

According to our process[3] for soliciting public comment when considering petitions for determination of nonregulated status of regulated organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. On August 19, 2020, we announced in the **Federal Register** (85 FR 51008–51009, Docket No. APHIS–2020–0030) the availability of the blight-tolerant chestnut petition for public comment.[4] We solicited comments on the petition for 60 days to help us identify potential environmental and interrelated economic issues and impacts that APHIS should consider in evaluation of the petition. We received 4,320 comments on the petition from the academic sector, farmers, non-governmental organizations, nonprofit organizations, industry, tribes, and unaffiliated individuals.

As part of our evaluation of the petition and consideration of public comments, APHIS concluded that the proposed determination of nonregulated status has the potential to significantly affect the quality of the human environment.[5] In a notice[6] published in the **Federal Register** on August 6, 2021

[1] To view the final rule, go to *www.regulations.gov* and enter APHIS–2018–0034 in the Search field.

[2] To view the petition, go to *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/regulatory-processes/petitions/petition-status.*

[3] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for organisms developed using genetic engineering. To view the notice, go to *www.regulations.gov* and enter APHIS–2011–0129 in the Search field.

[4] To view the notice, supporting documents, and the comments that we received, go to *www.regulations.gov* and enter APHIS–2020–0030 in the Search field.

[5] Human environment means comprehensively the natural and physical environment and the relationship of present and future generations of Americans with that environment. Impacts/effects include ecological (such as effects on natural resources, and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects (see 40 CFR 1508.1).

[6] To view the notice and the comments we received, go to *www.regulations.gov* and enter APHIS–2020–0030 in the Search field.

(86 FR 43160–43162, Docket No. APHIS–2020–0030), APHIS announced its intention to prepare an environmental impact statement (EIS) to conduct the level of detailed and rigorous environmental analysis to make an informed decision about the proposed determination of nonregulated status for Darling 58 American chestnut.

APHIS solicited public comment for a period of 30 days ending September 7, 2021, as part of its scoping process to identify issues to address in the draft EIS. We received a total of 3,964 public comments. Issues most frequently cited in public comments on the notice concerning Darling 58 American chestnut included the following:

- Potential for gene flow to wild relatives;
- Potential to spread and become invasive;
- Potential non-target impacts, specifically to beneficial fungi, the microbiome, mycorrhizal networks, and the forest ecosystem;
- Potential impacts to wildlife, including pollinators, and threatened and endangered species; and
- Potential human health impacts from consuming nuts as well as potential allergies from pollen.

The issues discussed in the draft EIS were developed by considering the public input from the **Federal Register** notice announcing the intention to draft an EIS. APHIS evaluated these issues to analyze the potential environmental impacts of a determination of nonregulated status for Darling 58 American chestnut and included a discussion of these issues in the draft EIS.

Therefore, in accordance with the National Environmental Policy Act (NEPA), APHIS' NEPA Implementing Procedures (7 CFR part 372), and 7 CFR part 340, APHIS is making available the draft EIS, as well as a draft plant pest risk assessment, for a 45-day public review and comment period. The draft EIS and draft PPRA are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above.

A notice of availability regarding the draft EIS will also be published by the Environmental Protection Agency in the **Federal Register**.

Done in Washington, DC, this 2nd day of November 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–24360 Filed 11–9–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Agency Information Collection Activities: Comment Request

AGENCY: National Agricultural Statistics Service, U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: The National Agricultural Statistics Service (NASS) within US Department of Agriculture (USDA) invites the general public and other Federal agencies to comment on a proposed information collection. NASS plans to collect information from the public to fulfill its data security requirements when providing access to restricted use data for the purpose of evidence building. NASS's data security agreements and other paperwork along with the corresponding security protocols allow NASS to maintain careful controls on confidentiality and privacy, as required by law. The purpose of this notice is to allow for 60 days of public comment on the proposed data security information collection, prior to submission of the information collection request (ICR) to the Office of Management and Budget (OMB).

DATES: Written comments on this notice must be received by January 9, 2023 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the National Agricultural Statistics Service (NASS), including whether the information will have practical utility; (b) the accuracy of NASS's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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, or other technological collection techniques or other forms of information technology.

ADDRESSES: You may submit comments, identified by docket number 0535–NEW, by any of the following methods:

- *Email: ombofficer@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 *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION: The Foundations for Evidence-Based Policymaking Act of 2018 mandates that the Office of Management and Budget (OMB) establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. While the adoption of the SAP is required for statistical agencies and units designated under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), it is recognized that other agencies and organizational units within the Executive branch may benefit from the adoption of the SAP to accept applications for access to confidential data assets. The SAP is to be a process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply to access confidential data assets held by a federal statistical agency or unit for the purposes of developing evidence. With the Interagency Council on Statistical Policy (ICSP) as advisors, the entities upon whom this requirement is levied are working with the SAP Project Management Office (PMO) and with OMB to implement the SAP. The SAP Portal is to be a single web-based common application for the public to request access to confidential data assets from federal statistical agencies and units. The National Center for Science and Engineering Statistics (NCSES), within the National Science Foundation (NSF), submitted a Federal Register Notice in September 2022 announcing plans to collect information through the SAP Portal (87 FR 53793).

Once an application for confidential data is approved through the SAP Portal, the National Agricultural

Statistics Service will collect information to meet its data security requirements. This collection will occur outside of the SAP Portal.

Title of collection: NASS Data Security Requirements for Accessing Confidential Data.

OMB Control Number: 0535–NEW.

Expiration Date of Current Approval: Not Applicable.

Type of Request: Intent to seek approval to collect information from the public to fulfill the National Agricultural Statistics Service security requirements allowing individuals to access confidential data assets for the purposes of building evidence.

Abstract

Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (hereafter referred to as the Evidence Act) mandates that OMB establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. Specifically, the Evidence Act requires OMB to establish a common application process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply for access to confidential data assets collected, accessed, or acquired by a statistical agency or unit. This new process will be implemented while maintaining stringent controls to protect confidentiality and privacy, as required by law.

Data collected, accessed, or acquired by statistical agencies and units is vital for developing evidence on conditions, characteristics, and behaviors of the public and on the operations and outcomes of public programs and policies. This evidence can benefit the stakeholders in the programs, the broader public, as well as policymakers and program managers at the local, State, Tribal, and National levels. The many benefits of access to data for evidence building notwithstanding, National Agricultural Statistics Service is required by law to maintain careful controls that allow it to minimize disclosure risk while protecting confidentiality and privacy. The fulfillment of National Agricultural Statistics Service's data security requirements places a degree of burden on the public, which is outlined below.

The SAP Portal is a web-based application for the public to request access to confidential data assets from federal statistical agencies and units. The objective of the SAP Portal is to increase public access to confidential data for the purposes of evidence building and reduce the burden of applying for confidential data. Once an individual's application in the SAP Portal has received a positive determination, the data-owning agency(ies) or unit(s) will begin the process of collecting information to fulfill their data security requirements.

The paragraphs below outline the SAP Policy, the steps to complete an application through the SAP Portal, and the process for agencies to collect information fulfilling their data security requirements.

The SAP Policy

At the recommendation of the ICSP, the SAP Policy establishes the SAP to be implemented by statistical agencies and units and incorporates directives from the Evidence Act. The policy is intended to provide guidance as to the application and review processes using the SAP Portal, setting forth clear standards that enable statistical agencies and units to implement a common application form and a uniform review process. The SAP Policy was submitted to the public for comment in January 2022 (87 FR 2459). The policy is currently under review and has not yet been finalized.

The SAP Portal

The SAP Portal is an application interface connecting applicants seeking data with a catalog of data assets owned by the federal statistical agencies and units. The SAP Portal is not a new data repository or warehouse; confidential data assets will continue to be stored in secure data access facilities owned and hosted by the federal statistical agencies and units. The Portal will provide a streamlined application process across agencies, reducing redundancies in the application process. This single SAP Portal will improve the process for applicants, tracking and communicating the application process throughout its lifecycle. This reduces redundancies and burden on applicants that request access to data from multiple agencies. The SAP Portal will automate key tasks to save resources and time and will bring agencies into compliance with the Evidence Act statutory requirements.

Data Discovery

Individuals begin the process of accessing restricted use data by discovering confidential data assets through the SAP data catalog, maintained by federal statistical agencies at *www.researchdatagov.org.* Potential applicants can search by agency, topic, or keyword to identify data of interest or relevance. Once they have identified data of interest, applicants can view metadata outlining the title, description or abstract, scope and coverage, and detailed methodology related to a specific data asset to determine its relevance to their research.

While statistical agencies and units shall endeavor to include metadata in the SAP data catalog on all confidential data assets for which they accept applications, it may not be feasible to include metadata for some data assets (*e.g.,* potential curated versions of administrative data). A statistical agency or unit may still accept an application through the SAP Portal even if the requested data asset is not listed in the SAP data catalog.

SAP Application Process

Individuals who have identified and wish to access confidential data assets will be able to apply for access through the SAP Portal when it is released to the public in late 2022. Applicants must create an account and follow all steps to complete the application. Applicants begin by entering their personal, contact, and institutional information, as well as the personal, contact, and institutional information of all individuals on their research team. Applicants proceed to provide summary information about their proposed project, to include project title, duration, funding, timeline, and other details including the data asset(s) they are requesting and any proposed linkages to data not listed in the SAP data catalog, including non-federal data sources. Applicants then proceed to enter detailed information regarding their proposed project, including a project abstract, research question(s), literature review, project scope, research methodology, project products, and anticipated output. Applicants must demonstrate a need for confidential data, outlining why their research question cannot be answered using publicly available information.

Submission for Review

Upon submission of their application, applicants will receive a notification that their application has been received and is under review by the data owning agency or agencies (in the event where data assets are requested from multiple agencies). At this point, applicants will also be notified that application approval does not alone grant access to confidential data, and that, if approved, applicants must comply with the data-owning agency's security requirements outside of the SAP Portal, which may include a background check.

In accordance with the Evidence Act and the direction of the ICSP, agencies

will approve or reject an application within a prompt timeframe. In some cases, agencies may determine that additional clarity, information, or modification is needed and request the applicant to ''revise and resubmit'' their application.

Data discovery, the SAP application process, and the submission for review are planned to take place within the web-based SAP Portal. As noted above, the notice announcing plans to collect information through the SAP Portal has been published separately (87 FR 53793).

Access to Restricted Use Data

In the event of a positive determination, the applicant will be notified that their proposal has been accepted. The positive or final adverse determination concludes the SAP Portal process. In the instance of a positive determination, the data-owning agency (or agencies) will contact the applicant to provide instructions on the agency's security requirements that must be completed to gain access to the confidential data. The completion and submission of the agency's security requirements will take place outside of the SAP Portal.

Collection of Information for Data Security Requirements

In the instance of a positive determination for an application requesting access to a National Agricultural Statistics Service (NASS) confidential data asset, NASS will contact the applicant(s) to initiate the process of collecting information to fulfill their security requirements. These include additional requirements necessary for the statistical agency or unit to place the applicant(s) in a trusted category that may include the applicant's successful completion of a background investigation, confidentiality training, nondisclosure, inspection of the site the confidential data will be accessed, and data use agreements.

NASS's data security requirements include the collection of the following:

- *Security Briefing:* NASS personnel provide a Security Briefing to all applicants who were approved access to restricted data. The Briefing is provided prior to the applicant completing the three forms listed below and includes information on the Confidential Information Protection and Statistical Efficiency Act of 2018, Title III of Public Law 115–435, codified in 44 U.S.C. Ch. 35 and other applicable Federal laws that protect the restricted data.
- Completion of form *ADM–043, Certification and Restrictions on Use of Unpublished Data.* This form is required to be signed by researchers who have been approved to access unpublished NASS data (alternatively, some approved researchers complete on-line training in lieu of completing this form). The form contains excerpts of the various laws that apply to the unpublished data being provided to the researcher. The form explains the restrictions associated with the unpublished data and includes a place for the research to sign the form, thereby acknowledging the restrictions and agreeing to abide by them.
- Completion of *User Attestation Form.* Researchers approved to access unpublished NASS data are provided with the document *Handbook for Special Sworn Data Users of a NASS Data Lab* that explains the policies and procedures associated with accessing unpublished NASS data in a NASS Data Lab (including data enclaves). Each researcher approved to access unpublished NASS data is required to sign the *User Attestation Form* to acknowledge they were provided with the *Handbook for Special Sworn Data Users of a NASS Data Lab* and agree to abide by its provisions.
- Completion of *NASS Site Inspection Checklist.* Researchers approved to access unpublished NASS data do so using a secure data enclave environment accessible at their own location. A NASS employee performs a site inspection (either in-person or via a video call) of the researcher's location prior to the researcher being granted access to the unpublished data. During the site inspection, the NASS employee administers the form *NASS Site Inspection Checklist,* which asks questions pertaining to the suitability of the location for restricted data access and some of the policies associated with accessing the restricted data. The form also collects information about the computer the researcher will use to access the NASS data enclave.

Note: Foreign Nationals who are approved to access NASS confidential data assets must also complete form OF–306, *Declaration for Federal Employment* (the form may also be used to assess fitness for federal contract employment). Form OF–306 is approved under OMB No. 3206–0182. Consequently, burden for completing OF–306 is not included here.

Estimate of Burden: The amount of time to complete the agreements and other paperwork, Security Briefing, and read the *Handbook for Special Sworn Data Users* that comprise NASS's security requirements will vary based on the confidential data assets requested and the access modality. To obtain access to NASS confidential data assets, it is estimated that the average time to complete and submit NASS's data security agreements and other paperwork, Security Briefing, and read the *Handbook for Special Sworn Data Users* is 145 minutes per applicant. This estimate does not include the time needed to complete and submit an application within the SAP Portal. All efforts related to SAP Portal applications occur prior to and separate from NASS's effort to collect information related to data security requirements.

The expected number of applications in the SAP Portal that receive a positive determination from NASS in a given year may vary. Overall, per year, NASS estimates it will collect data security information from 200 applicants that received a positive determination within the SAP Portal (note: a SAP Portal application may include access for more than one applicant) or other restricted use access approval. NASS estimates that the total burden for the collection of information for data security requirements over the course of the three-year OMB clearance will be about 1,452 hours and, as a result, an average annual burden of 484 hours.

Signed at Washington, DC, November 3, 2022.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2022–24524 Filed 11–9–22; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the West Virginia Advisory Committee

Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision to meeting link & meeting ID.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** on Tuesday, August 30, 2022, concerning a meeting of the West Virginia Advisory Committee. The meeting link and meeting ID have since been updated.

FOR FURTHER INFORMATION CONTACT: Ivy Davis, *idavis@usccr.gov.*

Correction: In the **Federal Register** on Tuesday, August 30, 2022, in FR Document Number 2022–18577, on page 52903, first and second columns, correct the meeting link to: *https://tinyurl.com/uf7nh7xh;* correct the meeting ID to: 160 806 8277; correct the phone number to: (833) 435–1820.

Dated: November 7, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–24545 Filed 11–9–22; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Household Pulse Survey

On September 12, 2022, the Department of Commerce received clearance from the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 to conduct Phase 3.6 of the Household Pulse Survey (OMB No. 0607–1013, Exp. 10/31/23). The Household Pulse Survey was designed to meet a need for timely information associated with household experiences during the Covid–19 pandemic. The Department is committed to ensuring that the data collected by the Household Pulse Survey continue to meet information needs as they may evolve over the course of the pandemic. This notice serves to inform of the Department's intent to request clearance from OMB to make some revisions to the Household Pulse Survey questionnaire. To ensure that the data collected by the Household Pulse Survey continue to meet information needs as they evolve over the course of the pandemic, the Census Bureau submits this Request for Revision to an Existing Collection for a revised Phase 3.7 questionnaire.

Phase 3.7 includes new questions on changes in travel and spending due to increasing prices, school meals, displacement due to natural disaster, receipt/loss of Medicaid coverage, and a question that asks certain respondents if they are not working due to coronavirus, natural disaster, or another reason. There are also modifications to existing vaccine booster, children's vaccine booster, infant formula, reasons not working, and inflation items. Several questions will be removed for Phase 3.7, including replaced children's vaccine booster items, and questions about educational catch-up activities and the receipt of antiviral/antibody treatments.

It is the Department's intention to commence data collection using the revised instrument on or about December 7, 2022. The Department invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously sought on the Household Pulse Survey via the **Federal Register** on May 19, 2020, June 3, 2020, February 1, 2021, April 13, 2021, June 24, 2021, October 26, 2021, January 24, 2022, April 18, 2022, and July 2, 2022. This notice allows for an additional 30 days for public comments on the proposed revisions.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Household Pulse Survey.

OMB Control Number: 0607–1013.

Form Number(s): None.

Type of Request: Request for a Revision of a Currently Approved Collection.

Number of Respondents: 136,779.

Average Hours per Response: 20 minutes.

Burden Hours: 45,137.

Needs and Uses: Data produced by the Household Pulse Survey are designed to inform on a range of topics related to households' experiences during the COVID–19 pandemic. Topics to date have included employment, facility to telework, travel patterns, income loss, spending patterns, food and housing security, amount of monthly rent and changes in monthly rent, access to benefits, mental health and access to care, difficulty with self-care and communicating, intent to receive the COVID–19 vaccine/booster, timing of coronavirus testing, use of coronavirus treatments, the experience of long COVID, post-secondary educational disruption, access to infant formula, the effects of increasing prices, natural disasters, and school meals for children. The requested revision, if approved by OMB, will remove selected items from the questions for which utility has declined and add questions based on information needs expressed via public comment and in consult with other Federal agencies. The overall burden change to the public will be insignificant.

The Household Pulse Survey was initially launched in April, 2020 as an experimental project (see *https://www.census.gov/data/experimental-data-products.html*) under emergency clearance from the Office of Management and Budget (OMB) initially granted April 19, 2020; regular clearance was subsequently sought and approved by OMB on October 30, 2020 (OMB No. 0607–1013; Exp. 10/30/2023).

Affected Public: Households.

Frequency: Households will be selected once to participate in a 20-minute survey.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 8(b), 182 and 196.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–1013.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–24575 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Bureau of Economic Analysis

Agency Information Collection Activities: Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request

AGENCY: U.S. Census Bureau and the U.S. Bureau of Economic Analysis, Commerce.

ACTION: Notice.

SUMMARY: The U.S. Census Bureau and the U.S. Bureau of Economic Analysis within the U.S. Department of Commerce invite the general public and other Federal agencies to comment on a proposed information collection. The U.S. Census Bureau and the U.S. Bureau of Economic Analysis plan to collect information from the public to fulfill their data security requirements when providing access to restricted use microdata for the purpose of evidence building. The U.S. Census Bureau and U.S. Bureau of Economic Analysis's data security agreements and other paperwork along with the corresponding security protocols allow the U.S. Census Bureau and the U.S. Bureau of Economic Analysis to maintain careful controls on

confidentiality and privacy, as required by law. The purpose of this notice is to allow for 60 days of public comment on the proposed data security information collection, prior to submission of the information collection request (ICR) to the Office of Management and Budget (OMB).

DATES: Written comments on this notice must be received by January 9, 2023 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

FOR FURTHER INFORMATION CONTACT:

Heather Madray, Senior Research Review Coordinator, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233; telephone (301) 763–1484; or send email to *heather.madray@census.gov.*

James Fetzer, Research Data Center Administrator, U.S. Bureau of Economic Analysis, 4600 Silver Hill Road, Washington, DC 20233; telephone (301) 278–9124; or send email to *james.fetzer@bea.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the U.S. Census Bureau and the U.S. Bureau of Economic Analysis, including whether the information will have practical utility; (b) the accuracy of the U.S. Census Bureau and the U.S. Bureau of Economic Analysis's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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, or other technological collection techniques or other forms of information technology.

The Foundations for Evidence-Based Policymaking Act of 2018 mandates that the Office of Management and Budget (OMB) establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. The SAP is to be a process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply to access confidential data assets held by a federal statistical agency or unit for the purposes of developing evidence. The SAP Portal is to be a single web-based common application for the public to request access to confidential data assets from federal statistical agencies and units. The National Center for Science and Engineering Statistics (NCSES), within the National Science Foundation (NSF), submitted a **Federal Register** Notice in September 2022 announcing plans to collect information through the SAP Portal (87 FR 53793).

Once an application for confidential data is approved through the SAP Portal, the U.S. Census Bureau and the U.S. Bureau of Economic Analysis will collect information to meet its data security requirements. This collection will occur outside of the SAP Portal.

Title of collection: Data Security Requirements for Accessing Confidential Data.

OMB Control Number: 0607–NEW.

Expiration Date of Current Approval: Not Applicable.

Type of Review: Regular Submission.

Affected Public: Members of the public who are seeking a security clearance with either the U.S. Census Bureau or the U.S. Bureau of Economic Analysis.

Estimated Number of Respondents: 640.

Estimated Time per Response: 57 minutes for the U.S. Bureau of Economic Analysis and 345 minutes for the U.S. Census Bureau; This estimate includes completion of paperwork and training requirements.

Estimated Total Annual Cost to the Public: $1.59 million.

Respondent's Obligation: Mandatory.

Legal Authority: 13 U.S.C. Sections 9 and 23(c) for Census; 22 U.S.C. Section 3104 and 15 CFR part 80 for BEA.

Abstract: Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (hereafter referred to as the Evidence Act) mandates that OMB establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. Specifically, the Evidence Act requires OMB to establish a common application process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply for access to certain confidential data assets collected, accessed, or acquired by a statistical agency or unit. This new process will be implemented while maintaining stringent controls to protect confidentiality and privacy, as required by the law governing the data-owning agency.

Data collected, accessed, or acquired by statistical agencies and units is vital for developing evidence on conditions, characteristics, and behaviors of the public and on the operations and outcomes of public programs and policies. This evidence can benefit the stakeholders in the programs, the broader public, as well as policymakers and program managers at the local, State, Tribal, and National levels. The many potential benefits of access to data for evidence building notwithstanding, the U.S. Census Bureau and the U.S. Bureau of Economic Analysis are required by the law governing their activities to maintain controls to protect the confidentiality and privacy of the data they collect.

The SAP Portal is a web-based application for the public to request access to confidential data assets from federal statistical agencies and units. The objective of the SAP Portal is to increase public access to confidential data for the purposes of evidence building and reduce the burden of applying for such access. Once an individual's application in the SAP Portal has received a positive determination by the data-owning agency, the data-owning agency(ies) or unit(s) will begin the process of collecting information to fulfill their data security requirements.

The paragraphs below outline the the process for BEA and Census to collect information fulfilling their data security requirements, consistent with their statutory requirements.

Collection of Information for Data Security Requirements

In the instance of a positive determination for an application requesting access to a U.S. Census Bureau and/or a U.S. Bureau of Economic Analysis confidential data asset through the SAP process, the U.S. Census Bureau and/or the U.S. Bureau of Economic Analysis will contact the applicant(s) to initiate the process of collecting information to fulfill their security requirements. These requirements include additional information necessary for the statistical agency or unit to place the applicant(s) in a trusted category that may include the applicant's successful completion of a background investigation, confidentiality training, nondisclosure, and data use agreements.

The U.S. Census Bureau and the U.S. Bureau of Economic Analysis's data security requirements include the collection of all or some of the following

information. The agency that requires each individual form is noted below:

- Form BC–1759, Special Sworn Status—U.S. Census Bureau
- Form CD–591, Department of Commerce Personal Identity Verification (PIV) Request—U.S. Census Bureau
- Fair Credit Release—U.S. Census Bureau
- Selective Service Form—U.S. Census Bureau
- Foreign National Residence History—U.S. Census Bureau
- Initial Information Sheet—U.S. Census Bureau
- Researcher Semi-Annual Contact Information and Travel History Update—U.S. Census Bureau
- Sworn Statement (Affirmation) of Nondisclosure for Consultant to BEA—U.S. Bureau of Economic Analysis
- Annual Census Bureau Data Handling University Training, including:
  - Data Stewardship & Controlled Unclassified Information (CUI)
  - Title 13 Awareness Course
  - Title 26 Awareness Training
  - Cybersecurity Awareness & Protection Course
- Annual Census Bureau Records Management Training
- Annual Bureau of Economic Analysis Title 26 Awareness Training
- Annual Bureau of Economic Analysis Data Stewardship and IT Security Training
- Annual Bureau of Economic Analysis Records Management 101 Training
- Annual Bureau of Economic Analysis Active Shooter Training
- Annual Bureau of Economic Analysis Employees Safety Training

Estimate of Burden: The amount of time to complete the agreements and other paperwork that comprise the U.S. Census Bureau and the U.S. Bureau of Economic Analysis's security requirements will vary based on the confidential data assets requested and the access modality. To obtain access to U.S. Census Bureau and U.S. Bureau of Economic Analysis confidential data assets, it is estimated that the average time to complete and submit the U.S. Census Bureau and the U.S. Bureau of Economic Analysis's data security agreements and other paperwork is 45 minutes for the U.S. Census Bureau and 12 minutes for the U.S. Bureau of Economic Analysis. This estimate does not include the time needed to complete and submit an application within the SAP Portal. All efforts related to SAP Portal applications occur prior to and separate from the U.S. Census Bureau and the U.S. Bureau of Economic Analysis's effort to collect information related to data security requirements. In addition, annual trainings are required to obtain and maintain a security clearance. It is estimated that the average time to complete the Census Bureau's Data Handling University and Records Management Training is 300 minutes.

The expected number of applications in the SAP Portal that receive a positive determination from the U.S. Census Bureau and the U.S. Bureau of Economic Analysis in a given year may vary. Overall, per year, the U.S. Census Bureau and the U.S. Bureau of Economic Analysis estimate they will collect data security information for a total of 260 application submissions that received a positive determination within the SAP Portal. The U.S. Census Bureau and the U.S. Bureau of Economic Analysis estimate that the total burden for the collection of information for data security requirements and completion of training over the course of the three-year OMB clearance will be about 10,503 hours and, as a result, an average annual burden of 3,501 hours.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–24593 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Miscellaneous Licensing Responsibilities and Enforcement

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before January 9, 2023.

ADDRESSES: Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*). Please reference OMB Control Number 0694–0122 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information involves ten miscellaneous activities described in Sections 744.15(b), Part 744 Supplement No. 7, paragraph (d), § 748.4 and Part 758 of the EAR that are associated with the export of items controlled by the Department of Commerce. Most of these activities do not involve submission of documents to the BIS but instead involve exchange of documents among parties in the export transaction to ensure that each party understands its obligations under U.S. law. Others involve writing certain export control statements on shipping documents or reporting unforeseen changes in shipping and disposition of exported commodities. These activities are needed by the Office of Export Enforcement and the U.S. Customs Service (Customs) to document export transactions, enforce the EAR and protect the National Security of the United States.

II. Method of Collection

Electronic.

III. Data

OMB Control Number: 0694–0122.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,224,151.

Estimated Time per Response: 5 seconds to 2 hours.

Estimated Total Annual Burden Hours: 97,456.

Estimated Total Annual Cost to Public: 0.

Respondent's Obligation: Voluntary.

Legal Authority: Export Control Reform Act (ECRA) of 2018.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–24608 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that sales of certain pasta (pasta) from Italy have been made at less than normal value by Pastificio Di Martino Gaetano e Flli S.p.A./Pastificio dei Campi S.p.A. (Di Martino/Dei Campi) during the period of review (POR) from July 1, 2020, through June 30, 2021.

DATES: Applicable November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Jonathan Hall-Eastman, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1468.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2022, Commerce published the *Preliminary Results* and invited interested parties to comment.[1] This review covers only one respondent, Di Martino/Dei Campi. No interested party submitted comments on the *Preliminary Results* or requested a hearing in this administrative review. Accordingly, the final results remain unchanged from the *Preliminary Results.* Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [2]

Imports covered by the *Order* are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by the scope of the *Order* is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the *Order* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the *Order.*[3] Pursuant to Commerce's August 14, 2009, changed circumstances review, effective July 1, 2008, gluten-free pasta is also excluded from the scope of the *Order.*[4] Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order.*[5]

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by exporters and importers and made available to U.S. Customs and Border Protection (CBP) or the Department of Commerce upon request.

The merchandise subject to this *Order* is currently classifiable under subheadings 1901.90.9095 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to the *Order* is dispositive.

Final Results of Review

We determine that the following weighted-average dumping margin exists for the respondent for the POR, July 1, 2020, through June 30, 2021:

Exporter or producer	Weighted-average dumping margin (percent)
Pastificio Di Martino Gaetano e Flli S.p.A. and Pastificio dei Campi S.p.A	6.60

Disclosure and Public Comment

Because Commerce received no comments on its *Preliminary Results,* we have not modified our analysis, and no decision memorandum accompanies this **Federal Register** notice. Consequently, there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for these final results.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the

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[1] *See Certain Pasta from Italy: Preliminary Results of Antidumping Duty Administrative Review and Partial Recission of Review; 2020–2021,* 87 FR 47815 (August 2, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy,* 61 FR 38547 (July 24, 1996) (*Order*); *see also Certain Pasta from Italy: Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews,* 82 FR 4291 (January 13, 2017).

[3] *See* Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the Central Records Unit.

[4] *See Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part,* 74 FR 41120 (August 14, 2009).

[5] *See Certain Pasta from Italy: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews and Revocation, in Part,* 79 FR 58319, 58320 (September 29, 2014).

final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the importer's sales in accordance with 19 CFR 351.212(b)(1). Where the respondent's weighted-average dumping margin is either zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed company did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[6]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Di Martino/Dei Campi will be equal to its weighted-average dumping margin established in the final results of this administrative review (except if that rate is *de minimis,* in which situation the cash deposit rate will be zero); (2) for merchandise exported by a company not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior complete segment of this proceeding, the cash deposit rate will be the company-specific rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers and exporters will continue to be 15.45 percent, the all-others rate established in the section 129 determination.[7]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: November 4, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–24566 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–DS–P

[6] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[7] *See Implementation of the Findings of the WTO Panel in US-Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders,* 72 FR 25261 (May 4, 2007).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–807]

Certain Uncoated Paper From Australia: Negative Final Determination of Circumvention of the Antidumping Duty Order for Certain Uncoated Paper Rolls

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of certain uncoated paper rolls from Australia were not completed by conversion into subject sheets of paper in the United States and, therefore, such imports are not circumventing the antidumping duty (AD) order on certain uncoated paper from Australia, within the meaning of section 781(a) of the Tariff Act of 1930, as amended (the Act).

DATES: Applicable November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Genevieve Coen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3251.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 2021, Commerce published in the **Federal Register** its preliminary negative circumvention determination[1] finding that imports of certain uncoated paper rolls from Australia were not completed by conversion into sheets subject to the *Order*[2] during the inquiry period. During August and September 2022, Commerce verified the questionnaire responses of the sole producer/exporter of certain uncoated paper rolls, Paper Australia Pty. Ltd., and its U.S. affiliate,

[1] *See Certain Uncoated Paper from Australia: Negative Preliminary Determination of Circumvention of the Antidumping Duty Order for Uncoated Paper Rolls,* 86 FR 7256 (January 27, 2021), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders,* 81 FR 11174 (March 3, 2016) (*Order*).

Paper Products Marketing (USA) Inc.[3] No interested parties submitted case briefs.

Scope of the Order

The merchandise subject to this *Order* includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level[4] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

On September 1, 2017, Commerce determined that imports of uncoated paper with a GE brightness of 83 +/−1% (83 Bright paper), otherwise meeting the description of in-scope merchandise, constitute merchandise ''altered in form or appearance in minor respects'' from in-scope merchandise that are subject to this *Order.*[5]

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers certain uncoated paper rolls that are commonly, but not exclusively, known as ''sheeter rolls,'' from Australia that are further processed in the United States into individual sheets of uncoated paper that would otherwise be subject to the *Order* (*i.e.,* paper that weighs at least 40 grams per square meter but not more than 150 grams per square meter; and that either is a white paper with a GE brightness level of 83 +/−1% or higher or is a colored paper (as defined above)). The uncoated paper rolls covered by this inquiry are able to be converted into sheets of uncoated paper using specialized cutting machinery prior to printing, and are typically, but not exclusively, between 52 and 103 inches wide and 50 inches in diameter. The paper rolls covered by this inquiry are classified under HTSUS subheading 4802.55.

Methodology

Commerce conducted this circumvention inquiry in accordance with section 781(a) of the Act.[6] We have continued to apply this methodology, and incorporate by reference this description of the methodology, for our final determination.

Final Determination

We determine that the uncoated paper rolls from Australia that are subject to this inquiry are not being completed by conversion in the United States into sheets of uncoated paper that would otherwise be subject to the *Order.* Therefore, these exports to the United States of uncoated paper rolls from Australia are not circumventing the *Order.*

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(a) of the Act and 19 CFR 351.225(g).

Dated: November 4, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–24605 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See* Memoranda, ''Verification of Paper Australia Pty. Ltd.'s Responses,'' dated September 21, 2022; and ''Verification of Paper Products Marketing (USA) Inc.,'' dated September 21, 2022.

[4] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

[5] *See Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders,* 82 FR 41610 (September 1, 2017).

[6] *See Preliminary Results* PDM for a full description of the methodology.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–883]

Glycine From India: Final Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that producers or exporters subject to this administrative review made sales of subject merchandise below normal value during the period of review June 1, 2020, through May 31, 2021.

DATES: Applicable November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Emily Bradshaw or Yang Jin Chun, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3896 or (202) 482–5760, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 7, 2022, Commerce published the *Preliminary Results* of the 2020–2021 administrative review of the antidumping duty order on glycine from

India.[1] For a complete description of the events that followed the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order is glycine. For a complete description of the scope of this order, *see* the Issues and Decision Memorandum.[3]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by interested parties in this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx*.

Changes Since the Preliminary Results

Based on a review of the record and our analysis of the comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made changes to the surrogate constructed value profit and selling expense ratio calculations for the final results of this administrative review.

Rate for Non-Selected Respondent

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review.

In this administrative review, we have calculated a weighted-average dumping margin for the mandatory respondent Avid Organics Private Limited that is not zero, *de minimis,* or based entirely on facts available (*i.e.,* 15.17 percent). Accordingly, we have assigned this rate to Paras Intermediates Private Limited, the sole respondent not selected for individual examination in this administrative review.[4]

Final Results of Review

We determine that the following estimated weighted-average dumping margins exist for the period of review June 1, 2020, through May 31, 2021.

Producer/ exporter	Weighted-average dumping margin (percent)
Avid Organics Private Limited	15.17
Kumar Industries/Rudraa International[5]	25.66
Paras Intermediates Private Limited	15.17

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in the final results of this administrative review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this administrative review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales, in accordance with 19 CFR 351.212(b)(1).[6] Where either a respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[7] For entries of subject merchandise during the period of review produced by any of these companies for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[8]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication). The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of these final results of administrative review for all shipments of glycine from India entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for companies subject to this review will be equal to the company-specific weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by a company not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this

[1] *See Glycine from India: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2020–2021,* 87 FR 40507 (July 7, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Glycine from India: Issues and Decision Memorandum for Final Results of Antidumping Duty Administrative Review; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *Id.* at 2.

[4] *See Preliminary Results,* 87 FR 40508.

[5] We continue to treat Kumar Industries and Rudraa International as a collapsed single entity for the final results of this administrative review. *Id.,* 87 FR 40507–08, n.6.

[6] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[7] *Id.,* 77 FR at 8102–03; *see also* 19 CFR 351.106(c)(2).

[8] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

review, a prior review, or the original investigation but the producer is, the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 7.23 percent, the all-others rate established in the investigation of sales at less than fair value, adjusted for the export-subsidy rate in the companion countervailing duty investigation.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221.

Dated: November 4, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes since the *Preliminary Results*
V. Discussion of the Issues
  Comment 1: Application of Total Adverse Facts Available (AFA)
  Comment 2: Selection of the AFA Rate
  Comment 3: Voluntary Respondent Request
  Comment 4: Selection of Surrogate Financial Information
VI. Recommendation

[FR Doc. 2022–24604 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Glycine from India and Japan: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Orders,* 84 FR 29170, 29171 (June 21, 2019).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–803]

Citric Acid and Certain Citrate Salts From Colombia: Final Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that citric acid and certain citrate salts (citric acid) from Colombia was sold in the United States at prices below normal value during the period of review (POR) July 1, 2020, through June 30, 2021.

DATES: Applicable November 10, 2022.

FOR FURTHER INFORMATION CONTACT: David Lindgren, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230; telephone: (202) 482–1671.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2022, Commerce published the *Preliminary Results.*[1] Subsequently, on August 22, 2022, we received one case brief from Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC (collectively, the petitioners).[2] No additional comments were submitted. This review covers one producer/exporter of the subject merchandise, Sucroal S.A. (Sucroal). Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [3]

The product covered by the *Order* is citric acid from Colombia. For a complete description of the scope, *see* the Issues and Decision Memorandum.[4]

Analysis of Comments Received

All issues raised in the case brief are addressed in the Issues and Decision Memorandum. The issue that the petitioners raised and to which we responded in the Issues and Decision Memorandum is attached at the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, we made one change to the preliminary weighted-average dumping margin calculations for Sucroal.[5]

Final Results of the Administrative Review

Commerce determines that the following weighted-average dumping margin exists for the period July 1, 2020, through June 30, 2021:

Producer/exporter	Estimated weighted-average dumping margin (percent)
Sucroal S.A	3.58

[1] *See Citric Acid and Certain Citrate Salts from Colombia: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021,* 87 FR 43786 (July 22, 2022) (*Preliminary Results*).

[2] *See* Petitioners' Letter, ''Petitioners' Case Brief,'' dated August 22, 2022.

[3] *See Citric Acid and Certain Citrate Sales from Belgium, Colombia and Thailand: Antidumping Duty Orders,* 83 FR 35214 (July 25, 2018) (*Order*).

[4] *See* Memorandum, ''Citric Acid and Certain Citrate Salts from Colombia: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See* Issues and Decision Memorandum at 3.

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results of review to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties (AD) on all appropriate entries of subject merchandise in accordance with the final results of this review. For Sucroal, because its weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce has calculated importer-specific AD assessment rates. We calculated importer- (or customer-) specific *ad valorem* AD assessment rates by dividing the total amount of dumping calculated for the importer's examined sales by the total entered value of the same sales for that importer, in accordance with 19 CFR 351.212(b)(1).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a). If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of these final results for all shipments of citric acid from Colombia entered, or withdrawn from warehouse, for consumption on or after the date of publication provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Sucroal will be equal to the dumping margin established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the producer and/or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 28.48 percent, the all-others rate established in the less-than-fair-value investigation.[6] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: November 4, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Issue
Comment: Whether to Correct an Error in the Comparison Market Program
V. Recommendation

[6] *See Order.*

[FR Doc. 2022–24606 Filed 11–9–22; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability for Public Comment on the Draft Fifth National Climate Assessment (NCA5) United States Global Change Research Program (USGCRP)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of availability for public comment.

SUMMARY: NOAA, on behalf of USGCRP, is publishing this notice on behalf of the United States Global Change Research Program (USGCRP) to announce the availability of a draft Fifth National Climate Assessment (NCA5) report for public comment. Following revision and further review (including by the National Academies of Sciences, Engineering, and Medicine), a revised draft will undergo final Federal interagency clearance.

DATES: Review comments should be submitted via the web address specified below *https://review.globalchange.gov/* and must be received by 12 weeks after publication of this notice.

ADDRESSES: The draft NCA5 can be accessed in the USGCRP Review and Comment System at *https://review.globalchange.gov/,* and also through the USGCRP Open Notices Page (*https://www.globalchange.gov/notices*). To review the draft report and submit comments, reviewers will need to register in the Review and Comment system. Comments may be submitted only via this online mechanism. Registration details can be found on the *https://review.globalchange.gov/* home page, and review instructions are accessible once a registered user has logged into the system.

All comments received through this process will be considered by the relevant chapter authors without knowledge of the commenters' identities. When the final assessment is issued, the comments and the commenters' names, along with the authors' responses, will become part of the public record and made available on *https://www.globalchange.gov.* No information submitted by a commenter as part of the registration process (such

as an email address) will be disclosed publicly.

FOR FURTHER INFORMATION CONTACT: Chris Avery, (202) 419–3474, *cavery@usgcrp.gov,* U.S. Global Change Research Program.

SUPPLEMENTARY INFORMATION: Background information and additional details on NCA5 can be found at *https://www.globalchange.gov/nca5.*

The U.S. Global Change Research Program (USGCRP) is mandated under the Global Change Research Act (GCRA) of 1990 to conduct a quadrennial National Climate Assessment (NCA) to evaluate scientific findings and uncertainties related to global change, analyze the effects of global change, and analyze the current and projected trends in global change, both human-induced and natural. Response to this notice is voluntary. Responses to this notice may be used by the government for program planning on a non-attribution basis. NOAA therefore requests that no business proprietary information or copyrighted information be submitted in response to this notice. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response

NCA5 fulfills this mandate by synthesizing and assessing the science and impacts of climate change across 2 physical science chapters, 17 national topic chapters, 10 regional chapters, and 2 response chapters. Additionally, multiple cross-cutting sections will focus on emergent topics of interest across many sectors and regions. Appendices articulate some additional details on process, rules, and tools used to develop NCA5. NCA5 assesses the science of impacts and options that reduce present and future risk in a policy-relevant but not policy-prescriptive manner. NCA5 is a product of the USGCRP and is overseen by a Federal Steering Committee. Chapter leads were identified via an open call for nominations (*https://www.federalregister.gov/documents/2020/10/15/2020-22729/request-for-public-nominations-for-authors-and-scientifictechnical-inputs-and-notice-of-planned*). The draft assessment was written by teams of Federal and non-Federal authors selected for their demonstrated subject matter expertise and publications relevant to the chapter topics outlined in the prospectus (*https://www.federalregister.gov/documents/2020/07/10/2020-14904/request-for-comment-on-the-draft-prospectus-of-the-fifth-national-climate-assessment*), and was informed by an array of technical inputs, many gathered through an open call (*https://www.federalregister.gov/documents/2020/10/15/2020-22729/request-for-public-nominations-for-authors-and-scientifictechnical-inputs-and-notice-of-planned*). This report adheres to the Global Change Research Act (GCRA), Information Quality Act and The Foundations for Evidence-based Policymaking Act of 2018 requirements (*https://www.noaa.gov/organization/information-technology/policy-oversight/information-quality*) for quality, transparency, and accessibility as appropriate for a Highly Influential Scientific Assessment.

David Holst,

Chief Financial Officer and Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–24611 Filed 11–7–22; 4:15 pm]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Sanctuary System Business Advisory Council; Public Meeting

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

ACTION: Notice of open public meeting.

SUMMARY: Notice is hereby given of a meeting of the Sanctuary System Business Advisory Council. The meeting is open to the public, and an opportunity for oral and written comments will be provided.

DATES: The meeting will be held Thursday, December 1, 2022, from 9 to 10 a.m. Eastern Time (ET), and an opportunity for public comment will be provided around 9:40 a.m. ET. Both times and agenda topics are subject to change. Up-to-date information about the meeting time and agenda topics can be found at *https://sanctuaries.noaa.gov/management/bac/meetings.html.*

ADDRESSES: The meeting will be held at NOAA Headquarters: 1325 East-West Hwy, SSMC 3, Room 2500, Silver Spring, Maryland. To attend the in-person meeting or to provide an oral public comment, you must RSVP to Jessica Kondel by email (*jessica.kondel@noaa.gov*) no later than Monday, November 28, 2022. Any person that attends the meeting must RSVP in advance and have a valid I.D. to enter the Federal building. To provide written public comment, please send the comment to Jessica Kondel prior to or during the meeting via email (*jessica.kondel@noaa.gov*). Please note, the meeting will not be recorded. However, public comments, including any associated names, will be captured in the minutes of the meeting, will be maintained by ONMS as part of its administrative record, and may be subject to release pursuant to the Freedom of Information Act. By signing up to provide a public comment, you agree that these communications, including your name and comment, will be maintained as described here.

FOR FURTHER INFORMATION CONTACT: Jessica Kondel, Office of National Marine Sanctuaries, 1305 East West Highway, Silver Spring, Maryland 20910 (Phone: 240–676–4646; Email: *jessica.kondel@noaa.gov*).

SUPPLEMENTARY INFORMATION: ONMS serves as the trustee for a network of underwater parks encompassing more than 620,000 square miles of marine and Great Lakes waters from Washington State to the Florida Keys, and from Lake Huron to American Samoa. The network includes a system of 15 national marine sanctuaries and Papahānaumokuākea and Rose Atoll marine national monuments. National marine sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources, and through active research, management, and public engagement, sustain healthy environments that are the foundation for thriving communities and stable economies.

One of the many ways ONMS ensures public participation in the designation and management of national marine sanctuaries is through the formation of advisory councils. The Sanctuary System Business Advisory Council has been formed to provide advice and recommendations to the Director regarding the relationship of ONMS with the business community. Additional information on the council can be found at *https://sanctuaries.noaa.gov/management/bac/.*

Matters to be discussed: The meeting will include an update from the ONMS director, a council officer election, and member updates. For a complete agenda, including times and topics, please visit *http://sanctuaries.noaa.gov/management/bac/meetings.html.*

Authority: 16 U.S.C. Sections 1431, *et seq.*

John Armor,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–24573 Filed 11–9–22; 8:45 am]

BILLING CODE 3510–NK–P

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee; Meeting

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on December 7, 2022 from 9:00 a.m. to 12:45 p.m. (Eastern Standard Time), the Agricultural Advisory Committee (AAC or Committee) will hold an in-person public meeting at the CFTC's Washington, DC headquarters with options for the public to attend virtually. At this meeting, the AAC will focus on topics related to the agricultural economy, including geopolitical and sustainability issues, as well as recent developments in the agricultural derivatives markets. The AAC will also address procedural matters, including topics of discussion on a forward-looking basis.

DATES: The meeting will be held on December 7, 2022, from 9:00 a.m. to 12:45 p.m. (Eastern Standard Time). Members of the public who wish to submit written statements in connection with the meeting should submit them by December 14, 2022.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 subject to CFTC facility health protocols in place at that time. You may submit public comments, identified by Agricultural Advisory Committee through the CFTC website at *https://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website. If you are unable to submit comments online, contact Brigitte Weyls, Designated Federal Officer, via the contact information listed below to discuss alternate means of submitting your comments. Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Brigitte Weyls, Agricultural Advisory Committee Designated Federal Officer, Commodity Futures Trading Commission, 77 West Jackson Blvd., Suite 800, Chicago, IL 60604; (312) 596–0547; or *aac@cftc.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Seating may be limited due to the Centers for Disease Control and Prevention's COVID–19 Community Level, which may require facilitating physical distancing to avoid overcrowding and additional restrictions. Members of the public may also listen to the meeting by telephone by calling a domestic or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Numbers (for higher quality, dial a number based on your current location): +1 669 254 5252 or +1 646 828 7666 or +1 551 285 1373 or +1 669 216 1590 or 833 435 1820 (Toll Free) or 833 568 8864 (Toll Free).

International Numbers: Will be posted on the CFTC's website, *https://www.cftc.gov,* on the page for the meeting, under Related Links.

Webinar ID: 161 934 5640.

Pass Code/Pin Code: 323866.

Members of the public may also view a live webcast of the meeting via the *https://www.cftc.gov* website. The meeting agenda may change to accommodate other Committee priorities. For agenda updates, please visit *https://www.cftc.gov/About/AdvisoryCommittees/AAC.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website, *https://www.cftc.gov.* Persons requiring special accommodations to attend the meeting because of a disability should notify the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

(Authority: 5 U.S.C. app. 2 section 10(a)(2))

Dated: November 7, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2022–24591 Filed 11–9–22; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Certificate of Alternate Compliance for USS Jack H. Lucas (DDG 125)

AGENCY: Department of the Navy (DON), Department of Defense (DOD).

ACTION: Notice of issuance of certificate of alternate compliance.

SUMMARY: The U.S. Navy hereby announces that a Certificate of Alternate Compliance has been issued for USS JACK H. LUCAS (DDG 125). Due to the special construction and purpose of this vessel, the Admiralty Counsel of the Navy has determined it is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the navigation lights provisions of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) without interfering with its special function as a naval ship. The intended effect of this notice is to warn mariners in waters where 72 COLREGS apply.

DATES: This Certificate of Alternate Compliance is effective November 10, 2022 and is applicable beginning November 4, 2022.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Shaun Pehl, JAGC, U.S. Navy, Admiralty Attorney, Office of the Judge Advocate General, Admiralty and Maritime Law Division (Code 15), 1322 Patterson Ave. SE, Suite 3000, Washington Navy Yard, DC 20374–5066, 202–685–5040, or *admiralty@navy.mil.*

SUPPLEMENTARY INFORMATION: Background and Purpose. Executive Order 11964 of January 19, 1977 and 33 U.S.C. 1605 provide that the requirements of the 72 COLREGS, as to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, shall not apply to a vessel or class of vessels of the Navy where the Secretary of the Navy shall find and certify that, by reason of special construction or purpose, it is not possible for such vessel(s) to comply fully with the provisions without interfering with the special function of the vessel(s). Notice of issuance of a Certificate of Alternate Compliance must be made in the **Federal Register**.

In accordance with 33 U.S.C. 1605, the Admiralty Counsel of the Navy, under authority delegated by the Secretary of the Navy, hereby finds and certifies that USS JACK H. LUCAS (DDG 125) is a vessel of special construction or purpose, and that, with respect to the

position of the following navigational lights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS without interfering with the special function of the vessel:

Annex I, paragraph 3(a), pertaining to the position of the forward masthead light; Annex I, paragraph 2(f)(i) pertaining to the vertical position of the aft masthead light; Annex I, paragraph 3(a), pertaining to the horizontal distance between the masthead lights; Annex I, paragraph 3(c), pertaining to the horizontal distance of the ''task lights'' below the masthead lights; Annex I, paragraph 2(f)(ii), pertaining to the horizontal position of the task lights above the aft masthead light(s) and vertical position of the task lights between the forward masthead light(s) and aft masthead light(s).

The Admiralty Counsel of the Navy further finds and certifies that these navigational lights are in closest possible compliance with the applicable provision of the 72 COLREGS.

Authority: 33 U.S.C. 1605(c), E.O. 11964.

Dated: November 4, 2022.

B.F. ROACH,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2022–24484 Filed 11–9–22; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Expanding Opportunity Through Quality Charter Schools Program (CSP)—Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools (CMO Grants)

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2023 for CSP CMO Grants, Assistance Listing Number (ALN) 84.282M. This notice relates to the approved information collection under OMB control number 1810–0767.

DATES:

Applications Available: November 10, 2022.

Notice of Intent to Apply: Applicants are strongly encouraged but not required to submit a notice of intent to apply by December 5, 2022. Applicants who do not meet this deadline may still apply.

Deadline for Transmittal of Applications: January 3, 2023.

Deadline for Intergovernmental Review: March 4, 2023.

Pre-Application Webinar Information: The Department will hold a pre-application meeting via webinar to provide technical assistance to prospective applicants. Detailed information regarding this webinar will be provided at *https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/charter-schools-program-grants-for-replications-and-expansion-of-high-quality-charter-schools/applicant-information-eligibility/.*

Note: For new potential grantees unfamiliar with grantmaking at the Department, please consult our funding basics resource at *www2.ed.gov/documents/funding-101/funding-101-basics.pdf* or a more detailed resource at *www2.ed.gov/documents/funding-101/funding-101.pdf.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264), and available at *www.federalregister.gov/d/2021–27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov*, a Data Universal Numbering System (DUNS) number, to the implementation of the Unique Entity Identifier (UEI). More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

FOR FURTHER INFORMATION CONTACT: Stephanie S. Jones, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–5970. Telephone: (202) 453–5563. Email: *CMOCompetition2023ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The CSP CMO Grant program (ALN 84.282M) is authorized under Title IV, Part C of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA) (20 U.S.C. 7221–7221j). Through CSP CMO Grants, the Department awards grants to *charter management organizations (CMOs)* [1] on a competitive basis to enable them to *replicate* or *expand* one or more *high-quality charter schools.* Grant funds may be used to significantly increase the enrollment of, or add one or more grades to, an existing high-quality charter school or to open one or more new charter schools or new campuses of a high-quality charter school based on the educational model of an existing high-quality charter school. Charter schools that receive financial assistance through CSP CMO Grants provide programs of elementary or secondary education, or both, and may also serve students in *early childhood education programs* or postsecondary students, consistent with the terms of their charter.

Background: The major purposes of the CSP are to expand opportunities for all students, particularly *underserved students,* to attend charter schools and meet challenging State academic standards; provide financial assistance for the planning, program design, and initial implementation of charter schools; increase the number of high-quality charter schools available to students across the United States; evaluate the impact of charter schools on student achievement, families, and communities; share best practices between charter schools and other public schools; aid States in providing facilities support to charter schools; and support efforts to strengthen the charter school authorizing process.

On July 6, 2022, the Department published in the **Federal Register** a notice of final priorities, requirements, definitions, and selection criteria for this program (87 FR 40406) (2022 NFP), which supplements the program statute and notice of final priorities, requirements, definitions, and selection criteria for CSP CMO Grants published in the **Federal Register** on November 30, 2018 (83 FR 61532) (2018 NFP). The 2022 NFP is intended to help ensure the creation, replication, and expansion of high-quality charter schools that promote positive student outcomes, *educator* and community empowerment, and promising practices; and promote school diversity. We also seek to promote greater fiscal and operational transparency and accountability for CSP-funded charter schools. The priorities, application requirements, assurances, selection criteria, and definitions in this notice are designed to increase access to high-quality, diverse, and equitable learning

[1] Terms defined in this notice are italicized the first time each term is used.

opportunities, which should be a goal of all public schools. Specifically, this competition includes a statutory priority from section 4305(b)(5)(A) of the ESEA to promote racially and socioeconomically diverse student bodies. The Department used a similar priority in the FY 2019 competition (83 FR 65351).

This competition also includes an invitational priority to encourage collaborations between charter schools and traditional public schools or traditional school districts that benefit students and families across schools. Some of the most successful charter schools have collaborated with traditional school districts, and there is evidence that these types of collaborations can improve outcomes for students in both charter schools and traditional public schools, including by sharing instructional materials, creating joint professional learning opportunities, and developing principal pipeline programs. Using an invitational priority allows the Department to encourage beneficial collaborations without giving applications that meet this priority preference over other applications.

Priorities: This notice includes three competitive preference priorities and one invitational priority. In accordance with 34 CFR 75.105(b)(2)(iv), Competitive Preference Priority 1 is from section 4305(b)(5)(A) of the ESEA. Competitive Preference Priority 2 is from the 2018 NFP. Competitive Preference Priority 3 is from the 2022 NFP.

Competitive Preference Priorities: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 7 points to an application that meets Competitive Preference Priority 1, up to an additional 7 points to an application that meets Competitive Preference Priority 2, and up to an additional 7 points to an application that meets Competitive Preference Priority 3, depending on how well the application meets one or more of these priorities.

An applicant must identify on the abstract form and in the project narrative section of its application the priority or priorities it wishes the Department to consider for purposes of earning competitive preference priority points. The Department will not review or award points for any competitive preference priority for an application that fails to clearly identify the competitive preference priority or priorities it wishes the Department to consider for purposes of earning competitive preference priority points. An application may receive a total of up to 21 additional points under the competitive preference priorities.

These priorities are:

Competitive Preference Priority 1—Racially and Socioeconomically Diverse Student Bodies (up to 7 points).

Under this priority, applicants must propose to operate or manage high-quality charter schools with racially and socioeconomically diverse student bodies. (Section 4305(b)(5)(A) of the ESEA).

Competitive Preference Priority 2—High School Students (up to 7 points).

Under this priority, applicants must propose to—

(a) Replicate or expand high-quality charter schools to serve high school students, including *educationally disadvantaged students;*

(b) Prepare students, including educationally disadvantaged students, in those schools for enrollment in postsecondary education institutions through activities such as, but not limited to, accelerated learning programs (including Advanced Placement and International Baccalaureate courses and programs, dual or concurrent enrollment programs, and early college high schools), college counseling, career and technical education programs, career counseling, internships, work-based learning programs (such as apprenticeships), assisting students in the college admissions and financial aid application processes, and preparing students to take standardized college admissions tests;

(c) Provide support for students, including educationally disadvantaged students, who graduate from those schools and enroll in postsecondary education institutions in persisting in, and attaining a degree or certificate from, such institutions, through activities such as, but not limited to, mentorships, ongoing assistance with the financial aid application process, and establishing or strengthening peer support systems for such students attending the same institution; and

(d) Propose one or more project-specific *performance measures,* including aligned leading indicators or other interim milestones, that will provide valid and reliable information about the applicant's progress in preparing students, including educationally disadvantaged students, for enrollment in postsecondary education institutions and in supporting those students in persisting in and attaining a degree or certificate from such institutions. An applicant addressing this priority and receiving a CSP CMO Grant must provide data that are responsive to the measure(s), including *performance targets,* in its annual performance reports to the Department.

(e) For purposes of this priority, postsecondary education institutions include *institutions of higher education,* as defined in section 8101(29) of the ESEA, and one-year training programs that meet the requirements of section 101(b)(1) of the Higher Education Act of 1965, as amended (HEA).

Competitive Preference Priority 3—Promoting High-Quality Educator- and Community-Centered Charter Schools to Support Underserved Students (up to 7 points).

(a) Under this priority, an applicant must propose to open a new charter school, or to replicate or expand a high-quality charter school, that is developed and implemented—

(1) With meaningful and ongoing engagement with current or former teachers and other educators; and

(2) Using a community-centered approach that includes an assessment of *community assets,* informs the development of the charter school, and includes the implementation of protocols and practices designed to ensure that the charter school will use and interact with community assets on an ongoing basis to create and maintain strong community ties.

(b) In its application, an applicant must provide a high-quality plan that demonstrates how its proposed project would meet the requirements in paragraph (a) of this priority, accompanied by a timeline for key milestones that span the course of planning, development, and implementation of the charter school.

Invitational Priority: For FY 2023, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Collaborations between Charter Schools and Traditional Public Schools or Districts that Benefit Students and Families across Schools.

(a) The Secretary is particularly interested in funding applications that propose a new collaboration, or the continuation of an existing collaboration, with at least one traditional public school or traditional school district that is designed to benefit

students or families served by at least one member of the collaboration, is designed to lead to increased or improved educational opportunities for students served by at least one member of the collaboration, and includes implementation of one or more of the following—

(1) Co-developed or shared curricular and instructional resources or academic course offerings.

(2) Professional development opportunities for teachers and other educators, which may include professional learning communities, opportunities for teachers to earn additional certifications, such as in a high-need area or national board certification, and partnerships with educator preparation programs to support teaching residencies.

(3) Evidence-based (as defined in section 8101 of the ESEA) practices to improve academic performance for underserved students.

(4) Policies and practices to create safe, supportive, and inclusive learning environments, such as systems of positive behavioral intervention and support.

(5) Transparent enrollment and retention practices and processes that include clear and consistent disclosure to families of policies or requirements (*e.g.,* discipline policies, purchasing and wearing specific uniforms and other fees, or family participation), and any services that are or are not provided, that could impact a family's ability to enroll or remain enrolled in the school (*e.g.,* transportation services or participation in the National School Lunch Program).

(6) A shared transportation plan and system that reduces transportation costs for at least one member of the collaboration and takes into consideration various transportation options, including public transportation and district-provided or shared transportation options, cost-sharing or free or reduced-cost fare options, and any distance considerations for prioritized bus services.

(7) A shared special education collaborative designed to address a significant barrier or challenge faced by participating charter schools or traditional public schools in improving academic and developmental outcomes and services for students with disabilities (as defined in section 8101 of the ESEA);

(8) A shared *English learner* collaborative designed to address a significant barrier or challenge faced by participating charter schools or traditional public schools in providing educational programs to improve academic outcomes for English learners;

(9) Other collaborations, such as the sharing of innovative and best practices, designed to address a significant barrier or challenge faced by participating charter schools or traditional public schools in providing educational programs to improve academic outcomes for all students served by members of the collaboration.

(b) In its application, an applicant must provide a description of the collaboration that—

(1) Describes each member of the collaboration and whether the collaboration would be a new or existing commitment;

(2) States the purpose and duration of the collaboration;

(3) Describes the anticipated roles and responsibilities of each member of the collaboration;

(4) Describes how the collaboration will benefit one or more members of the collaboration, including how it will benefit students or families affiliated with a member and lead to increased educational opportunities for students, and meet specific and measurable, if applicable, goals;

(5) Describes the resources members of the collaboration will contribute; and

(6) Contains any other relevant information.

(c) Within 120 days of receiving a grant award or within 120 days of the date the collaboration is scheduled to begin, whichever is later, the grantee provides evidence of participation in the collaboration (which may include, but is not required to include, a memorandum of understanding).

Definitions:

The following definitions are from sections 4310 (20 U.S.C. 7221i) and 8101 (20 U.S.C. 7801) of the ESEA, 34 CFR 77.1, the 2018 NFP, and the 2022 NFP.

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the *baseline* for that measure. (34 CFR 77.1)

Authorized public chartering agency means a State educational agency, local educational agency (LEA), or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school. (Section 4310(1) of the ESEA)

Baseline means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

Charter management organization means a nonprofit organization that operates or manages a network of charter schools linked by centralized support, operations, and oversight. (Section 4310(3) of the ESEA)

Charter school means a public school that—

(1) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this definition;

(2) Is created by a *developer* as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(3) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the *authorized public chartering agency;*

(4) Provides a program of elementary or secondary education, or both;

(5) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution; [2]

(6) Does not charge tuition;

(7) Complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), section 444 of GEPA (20 U.S.C. 1232g) (commonly referred to as the ''Family Educational Rights and Privacy Act of 1974''), and part B of the Individuals with Disabilities Education Act (IDEA);

(8) Is a school to which *parents* choose to send their children, and that—

(i) Admits students on the basis of a lottery, consistent with section 4303(c)(3)(A) of the ESEA, if more students apply for admission than can be accommodated; or

(ii) In the case of a school that has an affiliated charter school (such as a school that is part of the same network

[2] The Department will apply this element of the definition of ''charter school'' consistent with applicable U.S. Supreme Court precedent, including *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S.Ct. 2012 (2017), *Espinoza* v. *Montana Department of Revenue,* 140 S.Ct. 2246 (2020), and *Carson* v. *Makin,* 596 U.S. __(2022).

of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (i);

(9) Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(10) Meets all applicable Federal, State, and local health and safety requirements;

(11) Operates in accordance with State law;

(12) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(13) May serve students in early childhood education programs or postsecondary students. (Section 4310(2) of the ESEA)

Child with a disability means—

(1) A child (i) with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to as ''emotional disturbance''), orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple disabilities; and (ii) who, by reason thereof, needs special education and related services.

(2) For a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the LEA, include a child (i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and (ii) who, by reason thereof, needs special education and related services. (Section 8101(4) of the ESEA)

Community assets means resources that can be identified and mobilized to improve conditions in the charter school and local community. These assets may include—

(1) Human assets, including capacities, skills, knowledge base, and abilities of individuals within a community; and

(2) Social assets, including networks, organizations, businesses, and institutions that exist among and within groups and communities. (2022 NFP)

Developer means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out. (Section 4310(5) of the ESEA)

Disconnected youth means an individual, between the ages of 14 and 24, who may be from a low-income background, experiences homelessness, is in foster care, is involved in the justice system, or is not working or not enrolled in (or at risk of dropping out of) an educational institution. (2022 NFP)

Early childhood education program means—

(1) A Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 *et seq.*), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding;

(2) A State licensed or regulated child care program;

(3) A program that—

(i) Serves children from birth through age 6 that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and

(ii) Is (A) a State prekindergarten program; (B) a program authorized under section 619 (20 U.S.C. 1419) or part C of the IDEA; or (C) a program operated by an LEA. (ESEA section 8101(16))

Educationally disadvantaged student means a student in one or more of the categories described in section 1115(c)(2) of the ESEA, which include children who are economically disadvantaged, students who are *children with disabilities,* migrant students, English learners, neglected or delinquent students, homeless students, and students who are in foster care. (2018 NFP)

Educator means an individual who is an early learning educator, teacher, principal or other school or district leader, specialized instructional support personnel (*e.g.,* school psychologist, counselor, school social worker, early intervention service personnel), paraprofessional, or faculty. (2022 NFP)

English learner, when used with respect to an individual, means an individual—

(1) Who is aged 3 through 21;

(2) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(3)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(A) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(B) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(4) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the challenging State academic standards;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society. (Section 8101(20) of the ESEA)

Expand, when used with respect to a high-quality charter school, means to significantly increase enrollment or add one or more grades to the high-quality charter school. (Section 4310(7) of the ESEA)

High-quality charter school means a charter school that—

(1) Shows evidence of strong academic results, which may include strong student academic growth, as determined by a State;

(2) Has no significant issues in the areas of student safety, financial and operational management, or statutory or regulatory compliance;

(3) Has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the charter school; and

(4) Has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, except that such demonstration is not required in a case in which the number of students in a group is insufficient to yield statistically reliable information or

the results would reveal personally identifiable information about an individual student. (Section 4310(8) of the ESEA)

Institution of higher education means an educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of section 484(d) of the HEA;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time. (2018 NFP)

Logic model (also referred to as theory of action) means a framework that identifies key *project components* of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the *relevant outcomes*) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1)

Parent includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare). (Section 8101(38) of the ESEA)

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance. (34 CFR 77.1)

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project. (34 CFR 77.1)

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1)

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1)

Replicate, when used with respect to a high-quality charter school, means to open a new charter school, or a new campus of a high-quality charter school, based on the educational model of an existing high-quality charter school, under an existing charter or an additional charter, if permitted or required by State law. (Section 4310(9) of the ESEA)

Underserved student means a student in one or more of the following subgroups:

(1) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(2) A student of color.

(3) A student who is a member of a federally recognized Indian Tribe.

(4) An English learner (as defined in section 8101 of the ESEA).

(5) A *child or student with a disability* (as defined in section 8101 of the ESEA).

(6) A *disconnected youth.*

(7) A migrant student.

(8) A student experiencing homelessness or housing insecurity.

(9) A student who is in foster care.

(10) A pregnant, parenting, or caregiving student.

(11) A student impacted by the justice system, including a formerly incarcerated student.

(12) A student performing significantly below grade level. (2022 NFP)

Application Requirements:

Applications for CSP CMO Grant funds must address the following application requirements. These requirements are from sections 4303(f)(1) [3] and 4305(b)(3) of the ESEA, the 2018 NFP, and the 2022 NFP. The Department will not fund an application that does not meet each application requirement. The source of each requirement is provided in parentheses following each requirement.

In addressing the application requirements, applicants must clearly identify which application requirement they are addressing. An applicant must respond to application requirement (a) in a stand-alone section of the application or in an appendix. For all other application requirements, an applicant may choose to respond to each requirement separately or in the context of the applicant's responses to the selection criteria in section V.1 of this notice.

Applications for funding under the CSP CMO Grant program must—

(a) Describe the applicant's objectives in running a quality charter school program and how the program will be carried out, including—

(1) A description of how the applicant will ensure that charter schools receiving funds under this program meet the educational needs of their students, including *children with disabilities* and English learners (Section 4303(f)(1)(A)(x) of the ESEA); and

(2) A description of how the applicant will ensure that each charter school receiving funds under this program has considered and planned for the transportation needs of the school's students (Section 4303(f)(1)(E) of the ESEA);

(b) For each charter school currently operated or managed by the applicant, provide—

(1) Student assessment results for all students and for each subgroup of students described in section 1111(c)(2) of the ESEA;

(2) Attendance and student retention rates for the most recently completed school year and, if applicable, the most recent available 4-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates; and

(3) Information on any significant compliance and management issues encountered within the last 3 school years by any school operated or managed by the eligible entity, including in the areas of student safety and finance (Section 4305(b)(3)(A) of the ESEA);

(c) Describe the educational program that the applicant will implement in each charter school receiving funding under this program, including—

(1) Information on how the program will enable all students to meet the challenging State academic standards;

(2) The grade levels or ages of students who will be served; and

(3) The instructional practices that will be used (Section 4305(b)(3)(B)(ii) of the ESEA);

(d) Demonstrate that the applicant currently operates or manages more than one charter school. For purposes of this program, multiple charter schools

[3] Per section 4305(c) of the ESEA, CSP CMO Grants shall have the same terms and conditions as grants awarded to State entities under section 4303. For clarity, the Department has replaced the term ''State entity'' with ''applicant'' in the requirements that derive from section 4303.

are considered to be separate schools if each school—

(1) Meets each element of the definition of charter school under section 4310(2) of the ESEA; and

(2) Is treated as a separate school by its authorized public chartering agency and the State in which the charter school is located, including for purposes of accountability and reporting under title I, part A of the ESEA (2018 NFP);

(e) Provide information regarding any compliance issues, and how they were resolved, for any charter schools operated or managed by the applicant that have—

(1) Closed;

(2) Had their charter(s) revoked due to problems with statutory or regulatory compliance, including compliance with sections 4310(2)(G) and (J) of the ESEA; or

(3) Had their affiliation with the applicant revoked or terminated, including through voluntary disaffiliation (2018 NFP);

(f) Provide a complete *logic model* for the grant project. The logic model must include the applicant's objectives for replicating or expanding one or more high-quality charter schools with funding under this program, including the number of high-quality charter schools the applicant proposes to replicate or expand (2018 NFP);

(g) If the applicant currently operates, or is proposing to replicate or expand a single-sex charter school or coeducational charter school that provides a single-sex class or extracurricular activity (collectively referred to as a ''single-sex educational program''), demonstrate that the existing or proposed single-sex educational program is in compliance with title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*) and its implementing regulations, including 34 CFR 106.34 (2018 NFP);

(h) Describe how the applicant currently operates or manages the high-quality charter schools for which it has presented evidence of success and how the proposed replicated or expanded charter schools will be operated or managed, including the legal relationship between the applicant and its schools. If a legal entity other than the applicant has entered or will enter into a performance contract with an authorized public chartering agency to operate or manage one or more of the applicant's schools, the applicant must also describe its relationship with that entity (2018 NFP);

(i) Describe how the applicant will solicit and consider input from parents and other members of the community on the implementation and operation of each replicated or expanded charter school, including in the area of school governance (2018 NFP);

(j) Describe the lottery and enrollment procedures that will be used for each replicated or expanded charter school if more students apply for admission than can be accommodated, including how any proposed weighted lottery complies with section 4303(c)(3)(A) of the ESEA (2018 NFP);

(k) Describe how the applicant will ensure that all eligible *children with disabilities* receive a free appropriate public education in accordance with Part B of the Individuals with Disabilities Education Act (2018 NFP);

(l) Describe how the proposed project will assist educationally disadvantaged students in mastering challenging State academic standards (2018 NFP);

(m) Provide a budget narrative, aligned with the activities, target grant project outputs, and outcomes described in the logic model, that outlines how grant funds will be expended to carry out planned activities (2018 NFP);

(n) Provide the applicant's most recent independently audited financial statements prepared in accordance with generally accepted accounting principles (2018 NFP);

(o) Describe the applicant's policies and procedures to assist students enrolled in a charter school that closes or loses its charter to attend other high-quality schools (2018 NFP);

(p) Provide—

(1) A request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter schools to be replicated or expanded; and

(2) A description of any State or local rules, generally applicable to public schools, that will be waived, or otherwise not apply, to such schools (2018 NFP);

(q) Provide a needs analysis and describe the need for the proposed project, including how the proposed project would serve the interests and meet the needs of students and families in the communities the charter school intends to serve. The needs analysis, which may consist of information and documents previously submitted to an authorized public chartering agency to address need, must include, but is not necessarily limited to, the following—

(1) Descriptions of the local community support, including information that demonstrates interest in, and need for, the charter school; benefits to the community; and other evidence of demand for the charter school that demonstrates a strong likelihood the charter school will achieve and maintain its enrollment projections. Such information may include information on waiting lists for the proposed charter school or existing charter schools or traditional public schools, data on access to seats in high-quality public schools in the districts from which the charter school expects to draw students, or evidence of family interest in specialized instructional approaches proposed to be implemented at the charter school.

(2) Information on the proposed charter school's projected student enrollment, and evidence to support the projected enrollment based on the needs analysis and other relevant data and factors, such as the methodology and calculations used.

(3) An analysis of the proposed charter school's projected student demographics and a description of the demographics of students attending public schools in the local community in which the proposed charter school would be located and the school districts from which students are, or would be, drawn to attend the charter school; a description of how the applicant plans to establish and maintain a racially and socioeconomically diverse student body, including proposed strategies (that are consistent with applicable legal requirements) to recruit, admit, enroll, and retain a diverse student body. An applicant that is unlikely to establish and maintain a racially and socioeconomically diverse student body at the proposed charter school because the charter school would be located in a racially or socioeconomically segregated or isolated community, or due to the charter school's specific educational mission, must describe—

(i) Why it is unlikely to establish and maintain a racially and socioeconomically diverse student body at the proposed charter school;

(ii) How the anticipated racial and socioeconomic makeup of the student body would promote the purposes of the CSP, including to provide high-quality educational opportunities to underserved students, which may include a specialized educational program or mission; and

(iii) The anticipated impact of the proposed charter school on the racial and socioeconomic diversity of the public schools and school districts from which students would be drawn to attend the charter school.

(4) A robust family and community engagement plan designed to ensure the active participation of families and the community that includes the following—

(i) How families and the community were, are, or will be engaged in determining the vision and design for the charter school, including specific examples of how families' and the community's input was, is, or is expected to be incorporated into the vision and design for the charter school.

(ii) How the charter school will meaningfully engage with both families and the community to create strong and ongoing partnerships.

(iii) How the charter school will foster a collaborative culture that involves the families of all students, including underserved students, in ensuring their ongoing input in school decision-making.

(5) How the charter school's recruitment, admissions, enrollment, and retention policies and practices will engage and accommodate students and families from diverse backgrounds, including English learners, students with disabilities, and students of color, including holding enrollment and recruitment events on weekends or during nonstandard work hours, making interpreters available, and providing enrollment and recruitment information in widely accessible formats (*e.g.,* hard copy and online in multiple languages; as appropriate, large print or braille for visually impaired individuals) through widely available and transparent means (*e.g.,* online and at community locations).

(6) How the charter school has engaged or will engage families and the community to develop an instructional model to best serve the targeted student population and their families, including students with disabilities and English learners.

(7) How the plans for the operation of the charter school will support and reflect the needs of students and families in the community, including consideration of district or community assets and how the school's location, or anticipated location if a facility has not been secured, will facilitate access for the targeted student population (*e.g.,* access to public transportation or other transportation options, the demographics of neighborhoods within walking distance of the school, and transportation plans and costs for students who are not able to walk or use public transportation to access the school).

(8) A description of the steps the applicant has taken or will take to ensure that the proposed charter school (1) would not hamper, delay, or negatively affect any desegregation efforts in the local community in which the charter school would be located or in the public school districts from which students are, or would be, drawn to attend the charter school, including efforts to comply with a court order, statutory obligation, or voluntary efforts to create and maintain desegregated public schools; and (2) to ensure that the proposed charter school would not otherwise increase racial or socioeconomic segregation or isolation in the schools from which the students are, or would be, drawn to attend the charter school (2022 NFP);

(r) For any existing or proposed contract with a for-profit management organization (including a nonprofit management organization operated by or on behalf of a for-profit entity), without regard to whether the management organization or its related entities exercise full or substantial administrative control over the charter school or the CSP project, provide the following information or equivalent information that the applicant has submitted to the authorized public chartering agency—

(1) A copy of the existing contract with the for-profit management organization or a description of the terms of the contract, including the name and contact information of the management organization; the cost (*i.e.,* fixed costs and estimates of any ongoing costs), including the amount of CSP funds proposed to be used toward such cost, and the percentage such cost represents of the school's total funding; the duration; roles and responsibilities of the management organization; and steps the applicant will take to ensure that it pays fair market value for any services or other items purchased or leased from the management organization, makes all programmatic decisions, maintains control over all CSP funds, and directly administers or supervises the administration of the grant in accordance with 34 CFR 75.701;

(2) A description of any business or financial relationship between the charter school developer and the management organization, including payments, contract terms, and any property owned, operated, or controlled by the management organization or related individuals or entities that will be used by the charter school;

(3) The name and contact information for each member of the governing board of the charter school and list of the management organization's officers, chief administrator, and other administrators, and any staff involved in approving or executing the management contract; and a description of any actual or perceived conflicts of interest, including financial interests, and how the applicant resolved or will resolve any actual or perceived conflicts of interest to ensure compliance with 2 CFR 200.318(c);

(4) A description of how the applicant will ensure that members of the governing board of the charter school are not selected, removed, controlled, or employed by the management organization and that the charter school's legal, accounting, and auditing services will be procured independently from the management organization);

(5) An explanation of how the applicant will ensure that the management contract is severable, severing the management contract will not cause the proposed charter school to close, the duration of the management contract will not extend beyond the expiration date of the school's charter, and renewal of the management contract will not occur without approval and affirmative action by the governing board of the charter school; and

(6) A description of the steps the applicant will take to ensure that it maintains control over all student records and has a process in place to provide those records to another public school or school district in a timely manner upon the transfer of a student from the charter school to another public school, including due to closure of the charter school, in accordance with section 4308 of the ESEA (2022 NFP); and

(s) Provide—

(1) The name and address of the authorized public chartering agency that issued the applicant's approved charter or, in the case of an applicant that has not yet received an approved charter, the authorized public chartering agency to which the applicant has applied;

(2) A copy of the approved charter or, in the case of an applicant that has not yet received an approved charter, a copy of the charter application that was submitted to the authorized public chartering agency, including the date the application was submitted, and an estimated date by which the authorized public chartering agency will issue its final decision on the charter application;

(3) Documentation that the applicant has provided notice to the authorized public chartering agency that it has applied for a CSP grant; and

(4) A proposed budget, including a detailed description of any post-award planning costs and, for an applicant that does not yet have an approved charter, any planning costs expected to be incurred prior to the date the authorized public chartering agency issues a decision on the charter application. (2022 NFP)

Assurances:

Applicants for CSP CMO Grants must provide the following assurances. These assurances are from sections 4303(f)(2) and 4305(b)(3)(C) of the ESEA and the 2022 NFP. The source of each assurance is provided in parentheses following each assurance.

Applicants for funds under this program must provide assurances that—

(a) The grantee will support charter schools in meeting the educational needs of their students, as described in section 4303(f)(1)(A)(x) of the ESEA. (Section 4303(f)(2)(B) of the ESEA)

(b) The grantee will ensure that each charter school receiving funds under this program makes publicly available, consistent with the dissemination requirements of the annual State report card under section 1111(h) of the ESEA, including on the website of the school, information to help parents make informed decisions about the education options available to their children, including—

(1) Information on the educational program;

(2) Student support services;

(3) Parent contract requirements (as applicable), including any financial obligations or fees;

(4) Enrollment criteria (as applicable); and

(5) Annual performance and enrollment data for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, except that such disaggregation of performance and enrollment data shall not be required in a case in which the number of students in a group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. (Section 4303(f)(2)(G) of the ESEA)

(c) The eligible entity has sufficient procedures in effect to ensure timely closure of low-performing or financially mismanaged charter schools and clear plans and procedures in effect for the students in such schools to attend other high-quality schools. (Section 4305(b)(3)(C) of the ESEA)

(d) Each charter school it funds has not and will not enter into a contract with a for-profit management organization, including a nonprofit management organization operated by or on behalf of a for-profit entity, under which the management organization or its related entities exercises full or substantial administrative control over the charter school and, thereby, the CSP project. (2022 NFP)

(e) Any management contract between a charter school that the applicant funds and a for-profit management organization, including a nonprofit CMO operated by or on behalf of a for-profit entity, guarantees or will guarantee that—

(1) The charter school maintains control over all CSP funds, makes all programmatic decisions, and directly administers or supervises the administration of the grant;

(2) The management organization does not exercise full or substantial administrative control over the charter school (and, thereby, the CSP project), except that this does not limit the ability of a charter school to enter into a contract with a management organization for the provision of services that do not constitute full or substantial control of the charter school project funded under the CSP (*e.g.,* food or payroll services) and that otherwise comply with statutory and regulatory requirements;

(3) The charter school's governing board has access to financial and other data pertaining to the charter school, the management organization, and any related entities; and

(4) The charter school is in compliance with applicable Federal and State laws and regulations governing conflicts of interest, and there are no actual or perceived conflicts of interest between the charter school and the management organization. (2022 NFP)

(f) Each charter school that the applicant funds will post on its website, on an annual basis, a copy of any management contract between the charter school and a for-profit management organization, including a nonprofit management organization operated by or on behalf of a for-profit entity, and report information on such contract to the Department, including—

(1) A copy of the existing contract with the for-profit management organization or description of the terms of the contract, including the name and contact information of the management organization, the cost (*i.e.,* fixed costs and estimates of any ongoing costs), including the amount of CSP funds proposed to be used toward such costs, and the percentage such cost represents of the charter school's total funding, the duration, roles and responsibilities of the management organization, the steps the charter will take to ensure that it pays fair market value for any services or other items purchased or leased from the management organization, and the steps the charter school is taking to ensure that it makes all programmatic decisions, maintains control over all CSP funds, and directly administers or supervises the administration of the grant in accordance with 34 CFR 75.701;

(2) A description of any business or financial relationship between the charter school developer or CMO and the management organization, including payments, contract terms, and any property owned, operated, or controlled by the management organization or related individuals or entities to be used by the charter school;

(3) The names and contact information for each member of the governing boards of the charter school and a list of management organization's officers, chief administrator, and other administrators, and any staff involved in approving or executing the management contract; and a description of any actual or perceived conflicts of interest, including financial interests, and how the applicant resolved or will resolve any actual or perceived conflicts of interest to ensure compliance with 2 CFR 200.318(c); and

(4) A description of how the charter school ensured that such contract is severable and that a change in management companies will not cause the proposed charter school to close. (2022 NFP)

(g) Each charter school that the applicant funds will disclose, as part of the enrollment process, any policies and requirements (*e.g.,* purchasing and wearing specific uniforms and other fees, or requirements for family participation), and any services that are or are not provided, that could impact a family's ability to enroll or remain enrolled in the school (*e.g.,* transportation services or participation in the National School Lunch Program). (2022 NFP)

(h) Each charter school that the applicant funds will hold or participate in a public hearing in the local community in which the proposed charter school would be located to obtain information and feedback regarding the potential benefit of the charter school, which shall at least include how the proposed charter school will increase the availability of high-quality public school options for underserved students, promote racial and socioeconomic diversity in such community or have an educational mission to serve primarily underserved students, and not increase racial or socioeconomic segregation or isolation in the school districts from which students would be drawn to attend the charter school (consistent with applicable laws). Applicants must ensure that the hearing (and notice thereof) is accessible to individuals with disabilities and limited English proficient individuals as required by law, actively solicit participation in the hearing (*i.e.,* provide widespread and timely notice of the hearing), make good faith efforts to accommodate as many

people as possible (*e.g.,* hold the hearing at a convenient time for families or provide virtual participation options), and submit a summary of the comments received as part of the application. The hearing may be conducted as part of the charter authorizing process, provided it meets the requirements above. (2022 NFP)

(i) Each charter school that the applicant funds will not use any implementation funds for a charter school until after the charter school has received a charter from an authorized public chartering agency and has a contract, lease, mortgage, or other documentation indicating that it has a facility in which to operate. Consistent with sections 4303(b)(1), 4303(h)(1)(B), and 4310(6) of the ESEA, an eligible applicant may use CSP planning funds for post-award planning and design of the educational program of a proposed new or replicated high-quality charter school that has not yet opened, which may include hiring and compensating teachers, school leaders, and specialized instructional support personnel; providing training and professional development to staff; and other critical planning activities that need to occur prior to the charter school opening when such costs cannot be met from other sources. (2022 NFP)

(j) Each applicant must provide an assurance that, within 120 days of the date of the grant award notification (GAN), the grantee will post on its website:

(1) A list of the charter schools slated to receive CSP funds, including the following for each school:

(i) The name, address, and grades served.

(ii) A description of the educational model.

(iii) If the charter school has contracted with a for-profit management organization, the name of the management organization, the amount of CSP funding the management organization will receive from the school, and a description of the services to be provided.

(iv) The award amount, including any funding that has been approved for the current year and any additional years of the CSP grant for which the school will receive support.

(v) The grant (redacted as necessary).

(2) As applicable for CMO grants, such a list must be updated at least annually and provide the anticipated number of charter schools that will receive CSP planning funds before securing a facility.

Note: The Department recognizes that the charter approval process may exceed the 18-month planning period prescribed under section 4303(d)(1)(B) of the ESEA. In such a case, a grantee may request a waiver from the Department under section 4303(d)(5), to enable the grantee to amend its approved application to extend the 18-month planning period prescribed by section 4303(d)(1)(B). Under section 4303(d)(5) of the ESEA, the Secretary, in his discretion, may waive any statutory or regulatory requirement over which he exercises administrative authority, except the requirements related to the definition of ''charter school'' in section 4310(2) of the ESEA, provided that the waiver is requested in an approved application and the Secretary determines that granting the waiver will promote the purposes of the CSP. It is also worth noting that a grantee may request approval from the Department, as appropriate, to amend its approved application and budget to cover additional planning costs that it may incur due to an unexpected delay in the charter approval process.

Program Authority: Title IV, part C of the ESEA, as amended.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 76, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The 2018 NFP. (e) The 2022 NFP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $95,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $250,000 to $15,000,000 per year.

Estimated Average Size of Awards: $2,000,000 per year.

Maximum Award: See Reasonable and Necessary Costs in section III.4 for information regarding the maximum amount of funds that may be awarded per charter school.

Estimated Number of Awards: 15–20.

Note: The Department is not bound by any estimates in this notice. The estimated range and average size of awards are based on a single 12-month budget period. We may use available funds to support multiple 12-month budget periods for one or more grantees.

Project Period: Up to 60 months.

A grant awarded by the Secretary under this competition may be for a period of not more than 5 years, of which the grantee may use not more than 18 months for planning and program design. (Section 4303(d)(1)(B) of the ESEA)

III. Eligibility Information

1. *Eligible Applicants:* CMOs. Eligible applicants may apply individually or as part of a group or consortium.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2.a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This competition does not involve supplement-not-supplant funding requirements.

c. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to the Cost Principles described in 2

CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants.

4. *Reasonable and Necessary Costs:* The Secretary may elect to impose maximum limits on the amount of grant funds that may be awarded for a replicated or expanded high-quality charter school.

For this competition, the maximum limit of grant funds that may be awarded for a replicated or expanded charter school is $1,500,000.

In accordance with 2 CFR 200.404, applicants must ensure that all costs included in the proposed budget are reasonable and necessary in light of the goals and objectives of the proposed project. Any costs determined by the Secretary to be unreasonable or unnecessary will be removed from the final approved budget.

5. *Other CSP Grants:* A charter school that previously received funds for replication or expansion under this program, or that has been awarded a subgrant or grant for opening or preparing to operate a new charter school, replication, or expansion under the CSP Grants to State Entities (SE Grants) program (ALN 84.282A) or CSP Grants to Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools (Developer Grants) program (ALNs 84.282B and 84.282E), may not receive funds under this grant to carry out the same activities. However, such a charter school may be eligible to receive funds through a CSP CMO Grant awarded under this competition to expand the charter school beyond the existing grade levels or student count.

Likewise, a charter school that is included in an approved application for funding under this competition is ineligible to receive a subgrant or grant to carry out the same activities under the CSP SE Grant program (ALN 84.282A) or CSP Developer Grant program (ALNs 84.282B and 84.282E), including for opening or preparing to operate a new charter school or for replication or expansion of a high-quality charter school.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264), and available at *www.federalregister.gov/d/2021-27979,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a DUNS number to the implementation of the UEI. More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for this competition, your application may include business information that you consider proprietary. In 34 CFR 5.11, we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* Grantees under this program must use the grant funds to replicate or expand the charter school model or models for which the applicant has presented evidence of success. Specifically, grant funds must be used to carry out allowable activities, as described in section 4305(b)(1) of the ESEA. In addition, grant funds must be used to carry out one or more of the activities described in section 4303(h), which include—

(a) Preparing teachers, school leaders, and specialized instructional support personnel, including through paying costs associated with—

(1) Providing professional development; and

(2) Hiring and compensating, during the eligible applicant's planning period, one or more of the following:

(i) Teachers.

(ii) School leaders.

(iii) Specialized instructional support personnel;

(b) Acquiring supplies, training, equipment (including technology), and educational materials (including developing and acquiring instructional materials);

(c) Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction);

(d) Providing one-time, startup costs associated with providing transportation to students to and from the charter school;

(e) Carrying out community engagement activities, which may include paying the cost of student and staff recruitment; and

(f) Providing for other appropriate, non-sustained costs related to the replication or expansion of high-quality charter schools when such costs cannot be met from other sources.

Further, within the context of opening and preparing for the operation of one or more replicated high-quality charter schools or expanding one or more high-quality charter schools, a portion of grant funds can be used for appropriate, non-sustained costs associated with the expansion or improvement of the grantee's oversight or management of its charter schools, provided that (i) the specific charter schools being replicated or expanded under the grant are the intended beneficiaries of such expansion or improvement; (ii) such expansion or improvement is intended to improve the grantee's ability to manage or oversee the charter schools being replicated or expanded under the grant; and (iii) the costs cannot be met from other sources. In order to use grant funds for this purpose, an applicant must describe how the proposed costs are necessary to meet the objectives of the project and reasonable in light of the overall cost of the project.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit and English Language Requirement:* The project narrative is where you, the applicant, address the priorities, selection criteria, and application requirements that reviewers use to evaluate your application. We recommend that you (1) limit the project narrative to no more than 60 pages, and (2) use the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double-space (no more than three lines per vertical inch) all text in the project narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

Applications must be in English, and peer reviewers will only consider supporting documents submitted with the application that are in English.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the project narrative.

6. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name, a contact person's name and email address, and the Assistance Listing Number. Applicants that do not submit a notice of intent to apply may still apply for funding.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210, the 2018 NFP, and the 2022 NFP. The maximum possible score for addressing all of the selection criteria is 100 points. The maximum possible score for addressing each criterion is indicated in parentheses following the criterion.

In evaluating an application for a CSP CMO Grant, the Secretary considers the following criteria:

(a) *Quality of the Eligible Applicant and Adequacy of Resources (up to 30 points).*

In determining the quality of the eligible applicant, the Secretary considers the following factors:

(1) The extent to which the academic achievement results (including annual student performance on statewide assessments, annual student attendance and retention rates, and, where applicable and available, student academic growth, high school graduation rates, college attendance rates, and college persistence rates) for educationally disadvantaged students served by the charter schools operated or managed by the applicant have exceeded the average academic achievement results for such students served by other public schools in the State (up to 15 points). (2018 NFP)

(2) The extent to which one or more charter schools operated or managed by the applicant have closed; have had a charter revoked due to noncompliance with statutory or regulatory requirements; or have had their affiliation with the applicant revoked or terminated, including through voluntary disaffiliation (up to 5 points). (2018 NFP)

(3) The extent to which one or more charter schools operated or managed by the applicant have had any significant issues in the area of financial or operational management or student safety, or have otherwise experienced significant problems with statutory or regulatory compliance that could lead to revocation of the school's charter (up to 5 points). (2018 NFP)

(4) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support (up to 5 points). (34 CFR 75.210)

(b) *Quality of the Needs Analysis (up to 25 points).*

In determining the quality of the needs analysis, the Secretary considers the following factors:

(1) The extent to which the needs analysis demonstrates that the proposed charter school will address the needs of all students served by the charter school, including underserved students; will ensure equitable access to high-quality learning opportunities; and demonstrates sufficient demand for the charter school (up to 10 points). (2022 NFP)

(2) The extent to which the needs analysis demonstrates that the proposed charter school has considered and mitigated, whenever possible, potential barriers to application, enrollment, and retention of underserved students and their families (up to 10 points). (2022 NFP)

(3) The extent to which the proposed charter school is supported by families and the community, including the extent to which parents and other members of the community were engaged in determining the need and vision for the school and will continue to be engaged on an ongoing basis, including in the academic, financial, organizational, and operational performance of the charter school (up to 5 points). (2022 NFP)

(c) *Quality of the Project Design and Evaluation Plan for the Proposed Project (up to 10 points).*

In determining the quality of the evaluation plan for the proposed project, the Secretary considers the following factors:

(1) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework (up to 2 points). (34 CFR 75.210)

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the proposed project, as described in the applicant's logic model, and that will produce quantitative and qualitative data by the end of the grant period (up to 6 points). (2018 NFP)

(3) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (up to 2 points). (34 CFR 75.210)

(d) *Quality of the Management Plan (up to 35 points).*

In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (up to 6 points). (34 CFR 75.210(g)(2)(i))

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project (up to 6 points). (34 CFR 75.210(f)(2)(iv))

(3) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (up to 5 points). (34 CFR 75.210(g)(2)(iv))

(4) The adequacy of the applicant's plan to maintain control over all CSP grant funds (up to 6 points). (2022 NFP)

(5) The adequacy of the applicant's plan to make all programmatic decisions (up to 6 points). (2022 NFP)

(6) The adequacy of the applicant's plan to administer or supervise the administration of the grant, including maintaining management and oversight

responsibilities over the grant (up to 6 points). (2022 NFP)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a GAN; or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the Applicable Regulations section of this notice.

We reference the regulations outlining the terms and conditions of an award in the Applicable Regulations section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* (a) For the purposes of Department reporting under 34 CFR 75.110 the Secretary has two performance indicators: (1) the number of charter schools in operation around the Nation and (2) the percentage of fourth- and eighth-grade charter school students who are achieving at or above the proficient level on State assessments in mathematics and reading/language arts. Additionally, the Secretary has established the following measure to examine the efficiency of the CSP: The Federal cost per student in implementing a successful school (defined as a school in operation for three or more consecutive years).

(b) *Project-Specific Performance Measures.* Applicants must propose project-specific performance measures and performance targets consistent with the objectives of the proposed project. Applications must provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) *Performance measures.* How each proposed performance measure would accurately measure the performance of the project and how the proposed performance measure would be consistent with the performance measures established for the program funding the competition.

(2) *Baseline data.* (i) Why each proposed baseline is valid; or (ii) if the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(3) *Performance targets.* Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

(4) *Data collection and reporting.* (i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and (ii) the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

All grantees must submit an annual performance report with information that is responsive to these performance measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things, whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

7. *Project Directors' Meeting:* Applicants approved for funding under this competition must attend a meeting for project directors at a location to be determined in the continental United States during each year of the project. Applicants may include the cost of attending this meeting as an administrative cost in their proposed budgets.

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

James Lane,

Senior Advisor to the Secretary Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2022–24704 Filed 11–9–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2489–049]

Green Mountain Power Corporation; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* P–2489–049.

c. *Date filed:* October 31, 2022.

d. *Applicant:* Green Mountain Power Corporation.

e. *Name of Project:* Cavendish Hydroelectric Project.

f. *Location:* On the Black River, in the town of Cavendish, in Windsor County, Vermont. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* John Greenan, Green Mountain Power Corporation, 2152 Post Road, Rutland, VT 05701; Phone at (802) 770–2195, or email at *John.Greenan@greenmountainpower.com.*

i. *FERC Contact:* Adam Peer at (202) 502–8449 or email at *adam.peer@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 30, 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: Cavendish Hydroelectric Project (P–2489–049).

m. The application is not ready for environmental analysis at this time.

n. *The existing Cavendish Project consists of:* (1) a 3,000 foot-long, 10-acre impoundment with a gross storage capacity of 18.4-acre-feet at a normal water surface elevation of 884.13 feet National Geodetic Vertical Datum of 1929 (NGVD 29); (2) a 111-foot-long concrete gravity dam that consists of: (a) a 90-foot-long by 25-foot-high north spillway section topped with a 6-foot-high inflatable flashboard system; and (b) a 21-foot-long by 6-foot-high south spillway section topped with 2.5-foot-high steel flashboards; (3) an 18-inch wide downstream fish passage chute located on the north side of the spillway; (4) a concrete intake structure equipped with a mechanically operated headgate, and a trash rack with 2-inch clear bar spacing; (5) a 178-foot-long concrete and rock tunnel that carries flows from the intake to a penstock; (6) a 6-foot-diameter, 1,090-foot-long steel penstock; (7) a 64-foot-long by 34-foot-wide powerhouse containing three turbine-generator units with a combined capacity of 1.44 megawatts; (8) a 100-foot-long transmission line that runs from the powerhouse to a substation within the project boundary; and (9) appurtenant facilities. The project creates a 1,570-foot-long bypassed reach of the Black River.

The current license requires Green Mountain Power Corporation to: (1) operate the project in run-of-river mode; (2) maintain the impoundment water level no lower than 6 inches below the crest of the flashboards; (3) release a continuous minimum flow of 10 cubic feet per second (cfs) to the bypassed reach; and (4) release downstream flows of at least 42 cfs from June 1 to September 30, at least 83 cfs from October 1 to March 31, and at least 332 cfs from April 1 to May 31 when refilling the impoundment after project maintenance or flashboard installation. If inflows are insufficient to meet the downstream flows during impoundment refill, Green Mountain Power Corporation is required to release 90 percent of instantaneous inflow through the turbines. The project generates about 4,864 megawatt-hours annually.

Green Mountain Power Corporation proposes to: (1) continue operating the project in run-of-river mode; (2) maintain a stable impoundment water level at the top of the flashboard crest; (3) continue releasing a continuous minimum flow of 10 cfs to the bypassed reach; and (4) release 90 percent of instantaneous inflow through the turbines at all times when refilling the impoundment. Green Mountain Power Corporation also proposes to modify the penstock geometry and replace the three existing turbines.

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–2489). 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.

Issue Deficiency Letter (if necessary)—January 2022
Request Additional Information—January 2022
Issue Acceptance Letter—May 2022
Issue Scoping Document 1 for comments—May 2023
Issue Scoping Document 2 (if necessary)—July 2023
Issue Notice of Ready for Environmental Analysis—July 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 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24531 Filed 11–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–26–000]

Northern Natural Gas Company; Notice of Availability of the Environmental Assessment for the Proposed Des Moines A-Line Capacity Replacement Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Des Moines A-Line Capacity Replacement Project (Project), in Boone, Dallas and Polk Counties, Iowa, proposed by Northern Natural Gas Company (Northern) in the above-referenced docket. Northern requests authorization from the Commission to abandon about 29.6 miles of its existing 16-inch-diameter Des Moines A-line. This old pipeline, which was originally built in the 1940s, includes mechanical joints and acetylene welds, so that it cannot be inspected with in-line tools. Northern would install a total of about 9.07 miles of new 20-inch-diameter pipeline, in two separate segments, as an extension of its existing C-line. The C-line extension would allow replacement of a total of about 340 million cubic feet per day of natural gas that would have flowed through the A-line to be abandoned.

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The Commission mailed a copy of the *Notice of Availability* of the EA to federal, state, and local government representatives and agencies; elected

officials; non-governmental organizations, environmental, and public interest groups; potentially interested Indian tribes; affected landowners; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field, (*i.e.* CP22–26). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure consideration of your comments on the proposal, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on December 5, 2022.

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature 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 also file your comments electronically 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.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP22–26) 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.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene.*

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: November 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24529 Filed 11–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–367–000]

OnPoint Energy Illinois, 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 OnPoint Energy Illinois, 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 25, 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 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24534 Filed 11–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–369–000]

OnPoint Energy Pennsylvania, 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 OnPoint Energy Pennsylvania, 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 25, 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 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24530 Filed 11–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–368–000]

OnPoint Energy Ohio 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 OnPoint Energy Ohio 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 25, 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 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24537 Filed 11–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–495–000]

Mojave Pipeline Company, L.L.C.; Notice of Request for Extension of Time

Take notice that on November 3, 2022, Mojave Pipeline Company, L.L.C. (Mojave) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time until December 31, 2022, to complete construction of its Oak Creek Delivery Point Project (Project) located in Kern County, California. Mojave requested authorization to construct its Project in a prior notice application filed on September 13, 2021. Since no protests were filed within the comment period, Mojave's Project was deemed to be authorized on November 23, 2022.[1]

Mojave initially anticipated beginning construction by the end of 2021 once CalPortand Company (CalPortland) had obtained all necessary permits in order to construct and place the new delivery point into service by January 31, 2022.[2] However, due to delays in CalPortland receiving its necessary permits, construction on the project did not begin until October 4, 2022. Since construction commenced, the planned construction sequencing first requires the installation of CalPortland's meter station and related connecting lateral to Mojave's existing tap site followed by Mojave's construction activities. Mojave anticipates this construction plan will likely push the completion of the Mojave Project until December 31, 2022.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Mojave's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[3] the Commission will aim to issue an order acting on the request within 45 days.[4] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[5] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[6] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[7] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

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 Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and three copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on November 21, 2022.

Dated: November 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24536 Filed 11–9–22; 8:45 am]

BILLING CODE 6717–01–P

[1] Consistent with Section 157.206(c) of the Commission's regulations, Project activities must be completed one year from the date of authorization, *i.e.,* November 23, 2022.

[2] As described in Mojave's application, the Project involves two components: (1) minor work associated with preparing an existing Mojave tap that will be tied into a new CalPortland lateral; and (2) installation of electronic gas measurement equipment to be located within a new CalPortand-owned meter station.

[3] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[4] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[5] *Id.* at P 40.

[6] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[7] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–21–000.
Applicants: Sandy Ridge Wind 2, LLC.
Description: Sandy Ridge Wind 2, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 11/4/22.
Accession Number: 20221104–5112.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: EG23–22–000.
Applicants: Sandy Ridge Transco Interconnection, LLC.
Description: Sandy Ridge Transco Interconnection, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 11/4/22.
Accession Number: 20221104–5113.
Comment Date: 5 p.m. ET 11/25/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–1728–003.
Applicants: Basin Electric Power Cooperative.
Description: Compliance filing: Basin Electric Submission of Compliance Filing, Docket No. ER22–1728–002 to be effective 4/30/2022.
Filed Date: 11/4/22.
Accession Number: 20221104–5022.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–1–001.
Applicants: ITC Midwest LLC, Interstate Power and Light Company.
Description: Tariff Amendment: Interstate Power and Light Company submits tariff filing per 35.17(b): Amendment to O&T Agreement Exhibits and Appendices Update (2022) to be effective 12/2/2022.

Filed Date: 11/4/22.
Accession Number: 20221104–5072.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–225–001.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Amendment: Errata to Q3 2022 Qtrly Filing of City and County of San Francisco's WDT SA 275 to be effective 9/30/2022.
Filed Date: 11/4/22.
Accession Number: 20221104–5085.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–370–000.
Applicants: New England Power Company.
Description: New England Power Company submits Request for Limited Waiver of certain provisions in the formula rate template in Attachment F of the ISO New England Inc. OATT.
Filed Date: 11/2/22.
Accession Number: 20221102–5203.
Comment Date: 5 p.m. ET 11/23/22.

Docket Numbers: ER23–371–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Fresh Air Energy II (Castleberry PV1) LGIA Filing to be effective 10/26/2022.
Filed Date: 11/4/22.
Accession Number: 20221104–5070.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–372–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Indian Springs Solar LGIA Termination Filing to be effective 11/4/2022.
Filed Date: 11/4/22.
Accession Number: 20221104–5071.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–373–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Boggy Branch Solar LGIA Termination Filing to be effective 11/4/2022.
Filed Date: 11/4/22.
Accession Number: 20221104–5074.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–374–000.
Applicants: Southwestern Public Service Company, Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Southwestern Public Service Company submits tariff filing per 35.13(a)(2)(iii: SPS Formula Rate Revisions to Incorporate Changes Accepted in ER22–2746 to be effective 5/19/2021.
Filed Date: 11/4/22.
Accession Number: 20221104–5079.
Comment Date: 5 p.m. ET 11/25/22.

Docket Numbers: ER23–375–000.
Applicants: Colice Hall Solar, LLC.
Description: Baseline eTariff Filing: Application for Market Based Rate Authority to be effective 12/15/2022.
Filed Date: 11/4/22.
Accession Number: 20221104–5119.
Comment Date: 5 p.m. ET 11/25/22.

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 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24535 Filed 11–9–22; 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: RP23–165–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Shell Nov 2022) to be effective 11/4/2022.
Filed Date: 11/3/22.
Accession Number: 20221103–5073.
Comment Date: 5 p.m. ET 11/15/22.

Docket Numbers: RP23–166–000.
Applicants: Gulf Run Transmission, LLC.
Description: § 4(d) Rate Filing: Baseline Filing in Compliance with CP20–70, et al Order to be effective 12/15/2022.
Filed Date: 11/3/22.
Accession Number: 20221103–5119.
Comment Date: 5 p.m. ET 11/15/22.

Docket Numbers: RP23–167–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Combined Update to Remove Non-Conforming Wisconsin Gas Agmts & Expired PALs to be effective 12/5/2022.
Filed Date: 11/3/22.
Accession Number: 20221103–5123.
Comment Date: 5 p.m. ET 11/15/22.

Docket Numbers: RP23–168–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2022–11–03 Negotiated Rate Agreements Amendments to be effective 11/3/2022.
Filed Date: 11/3/22.
Accession Number: 20221103–5124.
Comment Date: 5 p.m. ET 11/15/22.

Docket Numbers: RP23–169–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2022–11–04 Negotiated Rate Agreements Amendments to be effective 11/4/2022.
Filed Date: 11/4/22.
Accession Number: 20221104–5046.
Comment Date: 5 p.m. ET 11/16/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 4, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–24532 Filed 11–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Olmsted Powerplant Replacement Project—Rate Order No. WAPA–205

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed formula rate for electric power service.

SUMMARY: The Colorado River Storage Project Management Center (CRSP MC) of the Western Area Power Administration (WAPA) proposes a new formula rate for the Olmsted Powerplant Replacement Project (Olmsted Project). The existing rate for this service under Rate Order WAPA–177 expires on May 6, 2023. There are no proposed changes to the existing formula rate in effect under Rate Order WAPA–177. WAPA proposes the new formula rate under Rate Order WAPA–205 will be effective May 1, 2023, through April 30, 2028.

DATES: A consultation and comment period will begin November 10, 2022 and end December 12, 2022.

CRSP MC will accept comments any time during the consultation and comment period.

ADDRESSES: Written comments and requests to be informed of Federal Energy Regulatory Commission (FERC) actions concerning the proposed formula rate submitted by WAPA to FERC for approval should be sent to: Rodney Bailey, Manager, CRSP MC, Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401, or email: *RBailey@wapa.gov.* CRSP MC will post information about the proposed formula rate and written comments received to its website at: *www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx.*

FOR FURTHER INFORMATION CONTACT: Thomas Hackett, Rates Manager, CRSP MC, Western Area Power Administration, 801–524–5503 or email: *hackett@wapa.gov.*

SUPPLEMENTARY INFORMATION: On August 30, 2018, FERC approved and confirmed Rate Schedule F–1 under Rate Order No. WAPA–177 on a final basis through May 6, 2023.[1] This schedule applies to the Olmsted Project electric power service.

The existing formula rate provides sufficient revenue to recover annual costs within the cost recovery criteria set forth in Department of Energy (DOE) Order RA 6120.2. The proposed rate continues the formula-based methodology that includes an annual update to the financial data in the rate formula. CRSP MC intends the proposed formula-based rate go into effect May 1, 2023. Each WAPA customer who receives an allocation of power from the Olmsted Project will pay its proportional share of the amortized portion of the United States' investment in the hydroelectric facilities with interest and the associated operation, maintenance, and replacement (OM&R) costs in an annual installment. The proportional share is based on each customer's share of the Olmsted Project's marketable energy production.

This proposed formula-based rate does not depend on the power and energy available to sell or the rate of generation each year. Each customer pays a proportional share of all investment and OM&R expenses of the Olmsted Project in return for its share of the marketable energy produced by the Olmsted Project. Each fiscal year (FY), CRSP MC will estimate the Olmsted Project expenses by preparing a power repayment study, which will include estimates of OM&R costs for the Olmsted Project. Cost allocations will be updated for the FY 2025 installment after the 2025 Olmsted Power Marketing Plan is finalized and new power contracts are effective October 1, 2024. The proposed formula rate would remain in effect until April 30, 2028, or until WAPA changes the formula rate through another public rate process pursuant to 10 CFR part 903, whichever occurs first.

Legal Authority

Existing DOE procedures for public participation in power and transmission rate adjustments (10 CFR part 903) were published on September 18, 1985, and February 21, 2019.[2] The proposed action constitutes a minor rate adjustment, as defined by 10 CFR 903.2(e). In accordance with 10 CFR 903.15(a) and 10 CFR 903.16(a), CRSP MC has determined it is not necessary to hold public information and public comment forums for this rate action but is initiating a 30-day consultation and comment period to give the public an opportunity to comment on the proposed formula rate. CRSP MC will review and consider all timely public comments at the conclusion of the consultation and comment period and make amendments or adjustments to the proposal as appropriate. Proposed rates will then be approved on an interim basis.

WAPA is establishing the formula rate for the Olmsted Project in accordance with section 302 of the DOE Organization Act (42 U.S.C. 7152).[3]

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. By Delegation Order No. S1–DEL–S3–2022–2, effective June 13, 2022, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–WAPA1–2022, effective June 13, 2022, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator.

Availability of Information

All brochures, studies, comments, letters, memoranda, or other documents that CRSP MC initiates or uses to develop the proposed formula rate are available for inspection and copying at the CRSP MC, located at 1800 South Rio Grande Avenue, Montrose, CO. Many of these documents and supporting information are also available on WAPA's website at: *www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx.*

Ratemaking Procedure Requirements

Environmental Compliance

WAPA has determined this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR part 1021.410: B4.3 (Electric power marketing rate changes) and B4.4 (Power marketing services activities). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.[4] Specifically, WAPA has

[1] Order Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. EF18–4–000, 164 FERC ¶ 62,116 (2018).

[2] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

[3] This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the project involved.

[4] The determination was done compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321–4347; the Council on Environmental Quality Regulations for

determined that this activity is consistent with activities identified in B4, Categorical Exclusions Applicable to Specific Agency Actions (*see* 10 CFR part 1021 appendix B to subpart D, part B4). A copy of the categorical exclusion determination is available on WAPA's website at: *www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx.*

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on October 28, 2022, by Tracey A. LeBeau, Administrator, Western Area Power Administration, 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 7, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–24571 Filed 11–9–22; 8:45 am]

BILLING CODE 6450–01–P

implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–SFUND–2022–0881; FRL–10392–01–R8]

Amendment to Prospective Purchaser Agreement, Anaconda Smelter Superfund Site, Anaconda, Deer Lodge County, Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: Notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 8, of a proposed amendment to a prospective purchaser agreement originally agreed to in 1994. The 1994 agreement, with the Montana Department of Environmental Quality on behalf of the State of Montana (the ''State''), Anaconda-Deer Lodge County, and the Old Works Golf Course Authority, Inc., (''Purchasers''), provided liability protection to the Purchasers in return for the implementation of certain institutional controls such as the Development Permit System, a county zoning system that regulates development in the county, and restrictive covenants limiting the use of certain properties affected by contamination, and also provided for the operation and maintenance of the Old Works Golf Course. The amended agreement, entitled Amendment to Agreement and Covenant Not to Sue, provides for the implementation of updated institutional controls, including an updated Development Permit System and modified restrictive covenants. Other work under the amended agreement includes updated operations and maintenance plans for the Old Works Golf Course, the Residential Attic Abatement Implementation Plan that provides for cleaning of attics, the Interior/Exterior Dust Program that provides for cleanup of contaminated dusts, and the Community Protective Measures Plan, an information program.

DATES: Comments must be submitted on or before December 12, 2022.

ADDRESSES: The proposed agreement and additional background information relating to the agreement will be available upon request. To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Comments and requests for a copy of the proposed agreement should be addressed to Anntasia Copeland, Enforcement Specialist, Superfund and Emergency Management Division, Environmental Protection Agency—Region 8, Mail Code 8SEM–PAC, 1595 Wynkoop Street, Denver, Colorado 80202, telephone number: (303) 312–6343, email address: *copeland.anntasia@epa.gov* and should reference the Anaconda Smelter Superfund Site. You may also send comments, identified by Docket ID No. EPA–R08–SFUND–2022–0881 to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Andy Lensink, Assistant Regional Counsel, Office of Regional Counsel, Environmental Protection Agency, Region 8, Mail Code 8 ORC–LEC, 1595 Wynkoop, Denver, Colorado 80202, telephone number: (303) 312–6908, email address: *lensink.andy@epa.gov.*

SUPPLEMENTARY INFORMATION: For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the agreement. The Agency will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations that indicate that the agreement is inappropriate, improper, or inadequate.

Betsy Smidinger,

Division Director, Superfund and Emergency Management Division, Region 8.

[FR Doc. 2022–24489 Filed 11–9–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–RCRA–2022–0802; 10223–01–R1]

Lead-Based Paint Renovation, Repair and Painting Activities in Target Housing and Child-Occupied Facilities; State of Vermont; Notice of Self-Certification Program Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces that on October 1, 2022, the State of Vermont was deemed authorized under section 404(a) of the Toxic Substances Control Act (TSCA) to administer and enforce requirements for the lead-based paint pre-renovation education and renovation, repair and painting (RRP) program. This document also announces that the Environmental Protection Agency (EPA) is seeking comment during a 45-day public comment period, and it is providing an opportunity to request a public hearing within the first 15 days of this comment period on whether Vermont's program is at least as protective as the federal program and provides for adequate enforcement. This document also announces that the authorization of the Vermont pre-renovation education and renovation, repair and painting program, which was deemed authorized by regulation and statute, will continue without further notice unless the EPA, based on its own review and/or comments received during the comment period, disapproves the Vermont program application.

DATES: Comments must be received on or before December 27, 2022. In addition, a public hearing request must be submitted on or before November 25, 2022.

ADDRESSES: You may submit comments, identified by Docket ID No. EPA–R01–RCRA–2022–0802, at *https://www.regulations.gov/.* Follow the online instructions for submitting comments. Once submitted, comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Amanda Triebwasser, RCRA Corrective Action and TSCA Section; Land, Chemicals, and Redevelopment Division; U.S. EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07–WI), Boston, MA 02109–3912; telephone number: 617–918–1758; email address: *triebwasser.amanda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2022–0802 at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. General Information

A. What action is the agency taking?

The EPA is announcing that the State of Vermont was deemed authorized under section 404(a) of TSCA, 15 United States Code (U.S.C.) 2684(a) and 40 CFR 745.324(d)(2), to administer and enforce requirements for an RRP program in accordance with section 402(c)(3) of TSCA, 15 U.S.C. 2682(c)(3) on October 1, 2022. The 402(c)(3) program ensures that training providers are accredited to teach renovation classes, that individuals performing renovation activities are properly trained and certified as renovators, that firms are certified as renovation firms, and that specific work practices are followed during renovation activities. Vermont submitted an application under section 404 of TSCA requesting authorization to administer and enforce requirements for an RRP program in accordance with section 402(c)(3) of TSCA. Vermont's application included self-certification that the program is at least as protective of human health and the environment as the federal program and provides for adequate enforcement. Therefore, pursuant to section 404(a) of TSCA and 40 CFR 745.324(d)(2), the Vermont RRP program is deemed authorized as of the date of submission and until such time as the agency disapproves the program application or withdraws program authorization. Pursuant to section 404(b) of TSCA and 40 CFR 745.324(e)(2), the EPA is providing notice, opportunity for public comment and opportunity for a public hearing on whether the state program application and subsequent administrative rule changes are at least as protective as the federal program and provide for adequate enforcement. If a hearing is requested and granted, the EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing.

B. What is EPA's authority in taking this action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That act amended TSCA (15 U.S.C. 2601–2695d) by adding Title IV (15 U.S.C. 2681–2692), entitled ''Lead Exposure Reduction.'' On April 22, 2008, the EPA promulgated the final TSCA section 402(c)(3) regulations governing renovation activities (73 FR 21692). These regulations require that in order to do renovation activities for compensation, renovators must first be properly trained and certified, must be associated with a certified renovation firm, and must follow specific work practice standards, including recordkeeping requirements. The EPA believes that regulation of renovation activities will help to reduce the exposures that cause serious lead poisonings, especially in children under age 6 who are particularly susceptible to the hazards of lead.

Under section 404 of TSCA, a state may seek authorization from the EPA to administer and enforce its own RRP program in lieu of the federal program. The regulation governing the authorization of a state program under section 402 of TSCA are codified at 40 CFR part 745, subpart Q. States that choose to apply for program authorization must submit a complete application to the appropriate regional EPA office for review. Those applications will be reviewed by the EPA within 180 days of receipt of the complete application. To receive EPA approval, a state must demonstrate that its program is at least as protective of human health and the environment as the federal program, and provides for adequate enforcement, as required by section 404(b) of TSCA. EPA's regulations at 40 CFR part 745, subpart Q provide the detailed requirements a state program must meet in order to obtain EPA approval.

A state may choose to certify that its own RRP program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program is at least as protective of human health and the environment as the federal program and provides for adequate enforcement. Upon submission of such a certification letter, the program is deemed authorized pursuant to TSCA section 404(a) and 40 CFR 745.324(d)(2). This authorization is withdrawn, however, if the EPA disapproves the application or withdraws the program authorization.

C. Does this action apply to me?

This action is directed to the public in general, to entities offering Lead Safe Renovation courses, and to firms and individuals engaged in renovation and remodeling activities of pre-1978 housing and child-occupied facilities in the State of Vermont. Individuals and firms falling under the North American Industrial Classification System (NAICS) codes in the table below may be affected by these rules.

NAICS code	Description
236118	Residential Remodelers.

NAICS code	Description
238210	Electrical Contractors and Other Wiring Installation Contractors.
238310	Drywall and Insulation Contractors.
238220	Plumbing, Heating, and Air-Conditioning Contractors.
238320	Painting and Wall Covering Contractors.
531110	Lessors of Residential Buildings and Dwellings.
531311	Residential Property Managers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this notice could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

III. State Program Description Summary

A. Vermont Program Summary

Components of the Vermont RRPM Program

The Vermont program is based on the Vermont Regulations for Lead Control (VRLC) pursuant to the authority conferred Chapter 38 of the Vermont Statutes Annotated. Chapter 38 was amended in 2018 to provide the Vermont Department of Health with the authority to develop a program to administer and enforce the lead-based paint activities and renovation, repair, painting and maintenance (RRPM) activities. The VRLC, first promulgated in 2000 and last amended in 2021, provide the framework for RRPM–RRP activities.

Activities and Buildings Covered

The VRLC cover RRPM activities in pre-1978 child-occupied facilities and target housing in Vermont, except zero-bedroom dwellings or dwellings reserved for the exclusive use of elderly or disabled, unless a child under six years of age resides or is expected to reside there.

Unless the area of paint disturbed is less than 1 square foot of interior paint per room and less than 20 square feet of exterior paint, or 1 square foot or less of exterior paint for rental target housing and child-care facilities, and unless the work does not involve window replacement or demolition of painted surface areas, property owners are required to hire a licensed RRPM Firm that uses licensed RRPM Supervisors to conduct RRPM activities.

Childcare operators can perform RRPM activities on their own childcare facilities if they have completed the RRPM Supervisor training and have been granted certification as an Uncompensated Childcare Operator by the Department of Health. Certification as an Uncompensated Childcare Operator has the same requirements as a Licensed Lead-Safe RRPM Firm, although Uncompensated Childcare Operators cannot provide RRPM activities for hire, and cannot provide on-the-job training or supervise RRPM activities.

Certification and Licensing Requirements

Entities can be licensed by the Vermont Department of Health as a Lead-Safe RRPM Firm by applying on the forms provided by the Department, assuring that at least one employee is a Licensed Lead-Safe RRPM Supervisor, and identifying whether they have previously had any lead-related enforcement actions taken against them.

Individuals can apply to the Department of Health for a Lead-Safe RRPM Supervisor license after successfully completing an 8-hour training from a Vermont-accredited training provider or a training provider accredited by EPA or an EPA RRP authorized state, provided the individual received the Vermont-specific training module and examination.

To be certified by the Department of Health, an Uncompensated Childcare Operator must successfully complete the same training as the Licensed Lead-Safe RRPM Supervisor. The difference between the Lead-Safe RRPM Supervisor license and the Uncompensated Childcare Operator certification is that the Certified Uncompensated Childcare Operator does not pay a fee and is issued a certificate rather than a license.

Training Course Accreditation Requirements

To obtain accreditation for a lead-based paint training course, including the RRPM Supervisor course, training providers are required to submit detailed information to the Vermont Department of Health, including information about curriculum, teaching methods, equipment, and instructors. Vermont RRPM training requirements include: all work practices required by the EPA to safely handle lead-based paint (plus Vermont-specific elements); a mandatory hands-on component; and a closed-book examination, except for online refresher training courses. The Department will conduct an on-site observation and evaluation of the training course and contents, its instructors, equipment, and facilities or will review a representative video of the course for evaluation to ensure the course meets State criteria. Vermont's statutory authority allows for the revocation, modification or suspension of any permit issued by the Department, including an accreditation.

Information Distribution Requirements

Vermont requires the Lead-Safe RRPM Firm or Certified Uncompensated Childcare Operator to distribute the Renovate Right pamphlet with a Vermont specific addendum to the owner and occupants of the property being renovated, repaired or painted, and parents or guardians of children in childcare facilities, no more than 60 days before RRPM activities are scheduled to be conducted.

For RRPM activities affecting common areas in target housing or in child occupied facilities, informational signs that describe the general nature and locations of the RRPM activities and the anticipated completion date may be posted rather than provided in writing to affected occupants or parents/guardians. For work in common areas of target housing if the firm notified those affected in writing, the RRPM Firm or Certified Uncompensated Childcare Operator must provide a written notice to all owners and occupants if the scope and timeframe of the RRPM activities change.

Work Practice Standards

RRPM work practice standards are found at VLRC 7.3. All RRPM activities shall be performed by a licensed lead-safe RRPM firm and supervised by a licensed lead-safe RRPM supervisor or by a certified uncompensated child-care operator. Once the RRPM activities begin, the Licensed Lead-Safe RRPM Supervisor or Certified Uncompensated Childcare Operator is responsible for ensuring that the site is secured and proper signage is posted to prevent exposure to occupants, contamination of

their belongings and dispersion of lead dust into other areas. Containment generally includes closing windows, sealing doors and ducts, covering floors/carpets and covering furniture left in the room. The RRPM Firm is required to have a Licensed Lead-Safe RRPM Supervisor on site at all times when RRPM work is underway. Once RRPM activities are complete, proper disposal of waste and a thorough cleaning of the area is required. Following cleaning, the Licensed Lead-Safe RRPM Supervisor or Certified Uncompensated Childcare operator is responsible for conducting a visual clearance and cleaning verification. Certain dangerous work practices found at VLRC 5.1.2 are also prohibited.

Record Keeping Requirements

RRPM recordkeeping requirements are found at VLRC 7.4. All licensed Lead-Safe RRPM firms must retain records related to RRPM activities for a period of six years. Examples of records that shall be retained include: lead inspection reports, proof of pre-renovation education distribution, documentation of compliance with RRPM work practice activities, on-the-job training, and post renovation cleaning verification. If requested, the licensed RRPM firm or Uncompensated Child Care Operator must make all records documenting compliance available to the Department.

The Vermont PRE and RRPM Programs meet or exceed all EPA program elements for protecting the public. Areas where Vermont's RRPM program will exceed EPA Requirements for protecting the public:

- The RRPM Firm is required to have a Licensed Lead-Safe RRPM Supervisor on site the entire time RRPM activities are being conducted.
- Vermont's definition of RRP-regulated building spaces includes all spaces generally accessible to residents/users/occupants/guests including, but not limited to, hallways, stairways, porches, laundry and recreational rooms, playgrounds, community centers, boundary fences, basements, and sheds. This is more restrictive than the EPA definition.
- Vermont's threshold for what constitutes a minor RRPM activity on the interior (1 square foot per room) is lower than EPA's (6 square feet per room). Further, Vermont lowers the exterior minor RRPM activity threshold for childcare facilities and rental target housing to 1 square foot, as opposed to EPA's 20 square feet.
- Vermont does not allow for the use of test kits to determine lead-free status, but rather requires a licensed lead-based paint risk assessor to determine the presence of lead-based paint.

IV. Federal Overfiling

Section 404(b) of TSCA makes it unlawful for any person to violate or fail or refuse to comply with any requirement of an approved state program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized state program.

V. Withdrawal of Authorization

Pursuant to section 404(c) of TSCA, the EPA Administrator may withdraw authorization of a State or Indian Tribal renovation, repair and painting program, and/or a lead-based paint pre-renovation education program, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures U.S. EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

David Cash,

Regional Administrator, U.S. EPA Region 1.

[FR Doc. 2022–24541 Filed 11–9–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2022–0843; FRL–10363–01–OCSPP]

Science Advisory Committee on Chemicals (SACC); Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) invites the public to nominate scientific experts from a diverse range of disciplines to be considered for appointment to the Science Advisory Committee on Chemicals (SACC), established pursuant to the Toxic Substances Control Act (TSCA). EPA anticipates appointing new SACC members by mid-2023 due to expiring membership terms. Sources in addition to this **Federal Register** notice may be utilized to solicit nominations and identify candidates. Any interested person or organization may nominate qualified individuals to be considered prospective candidates to the committee by following the instructions provided in this document. Individuals may also self-nominate.

DATES: Nominations must be received on or before December 12, 2022.

ADDRESSES: Submit your nominations, identified by the docket identification (ID) number EPA–HQ–OPPT–2022–0843, through the *Federal e-Rulemaking Portal* at *https://www.regulations.gov.* Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. More information about the dockets is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Tamue L. Gibson, MS, Designated Federal Officer (DFO) and Acting Executive Secretary, telephone number: (202) 564–7642; email address: *gibson.tamue@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those involved in the manufacture, processing, distribution, disposal, and/or those interested in the assessment of risks involving chemical substances and mixtures. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my nominations for EPA?

1. Submitting CBI.

Do not submit CBI information to EPA through *regulations.gov* or email. If your nomination contains any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your nomination. Information properly marked as CBI will not be disclosed except in accordance with the procedures set forth in *40 CFR part 2.*

2. Request for nominations.

As part of a broader process for developing a pool of candidates for membership to the SACC, the EPA Peer Review and Ethics Branch (PREB) staff solicits the public and stakeholder communities for nominations of prospective candidates. Any interested person or organization may nominate qualified individuals to be considered

as prospective candidates. Individuals may also self-nominate.

II. Background

The SACC is a federal advisory committee, established in December 2016 pursuant to TSCA section 2625(o), and chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2. EPA established the SACC to provide independent advice and recommendations to the EPA Administrator on the scientific basis for risk assessments, methodologies, and approaches relating to implementation of TSCA. The SACC members serve as Special Government Employees (SGEs) or Regular Government Employees (RGEs). The SACC expects to meet approximately 4 to 6 times per year, or as needed and approved by the DFO. Currently, there are 17 SACC members, with eight membership terms that will expire over the next year. Therefore, EPA anticipates appointing up to eight new members to the SACC by mid-2023.

III. Nominations

In accordance with Executive Order 14035 of June 25, 2021, entitled ''Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce'' (86 FR 34593, June 30, 2021), EPA values and welcomes opportunities to increase diversity, equity, inclusion and accessibility on its federal advisory committees. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups that draw from the full diversity of the Nation. Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals also may self-nominate. Nominations may be submitted in electronic format in accordance with the instructions under **ADDRESSES**.

Nominations should include candidates who have demonstrated high levels of competence, knowledge, and expertise in scientific/technical fields relevant to chemical safety and risk assessment. In particular, the nominees should include representation of the following disciplines, including, but not limited to: Human health and ecological risk assessment, biostatistics, epidemiology, pediatrics, physiologically based pharmacokinetics (PBPK), toxicology and pathology (including neurotoxicology, developmental/reproductive toxicology, and carcinogenesis), and the relationship of chemical exposures to women, children, and other potentially exposed or susceptible subpopulations.

To be considered, all nominations should include the following information: Current contact information for the nominee (including the nominee's name, organization, current business address, email address, and daytime telephone number); the disciplinary and specific areas of expertise of the nominee; and, when available, a biographical sketch of the nominee indicating current position, educational background; research activities; and recent service on other federal advisory committees and national or international professional organizations. Persons having questions about the nomination process should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The DFO will acknowledge receipt of nominations. The names and biographical sketches of nominees identified by respondents to this **Federal Register** notice, other sources for nominations, and any additional candidates identified by EPA Staff, will be posted in a List of Candidates in the docket at *https://www.regulations.gov* and on the SACC website at *https://www.epa.gov/tsca-peer-review.* The availability of the list also will be announced through the Office of Chemical Safety and Pollution Prevention (OCSPP)'s listservs. You may subscribe to these listservs at the following website: *https://public.govdelivery.com/accounts/USAEPAOPPT/subscriber/new?topic_id=USAEPAOPPT_101.* Public comments on the List of Candidates will be accepted for 30 days from the date the list is posted. The public will be requested to provide relevant information or other documentation on nominees that the EPA should consider in evaluating candidates.

IV. Selection Criteria

In addition to scientific expertise, in selecting members, EPA will consider the differing perspectives and the breadth of collective experience needed to address EPA's charge to the SACC, as well as the following:

- Background and experiences that would contribute to the diversity of scientific viewpoints on the committee, including professional experiences in government, labor, public health, public interest, animal protection, industry, and other groups, as the EPA Administrator determines to be advisable (*e.g.,* geographical location; social and cultural backgrounds; and professional affiliations).
- Skills and experience working on committees and advisory panels including demonstrated ability to work constructively and effectively in a committee setting.
- Absence of financial conflicts of interest or the appearance of a loss of impartiality.
- Willingness to commit adequate time for the thorough review of materials provided to the committee.
- Availability to participate in committee meetings.

Authority: 15 U.S.C. 2625 *et seq;* 5 U.S.C. Appendix 2 *et seq.*

Dated: November 5, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–24550 Filed 11–9–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2022–0884; FRL–10395–01–OGC]

Proposed Consent Decree, Clean Water Act and Administrative Procedure Act Claims

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Environmental Protection Agency (EPA) Administrator's March 18, 2022, memorandum regarding ''Consent Decrees and Settlement Agreements to resolve Environmental Claims Against the Agency,'' notice is hereby given of a proposed consent decree in *Environmental Law & Policy Center, et al.,* v. *United States Environmental Protection Agency,* No. 3:19–cv–295 (N.D. Ohio). On February 7, 2019, the Environmental Law & Policy Center, which was later joined by the Lucas County Board of Commissioners, (collectively ''Plaintiffs'') filed a complaint against the EPA alleging that the Agency's approval of Ohio's 2018 section 303(d) list was arbitrary and capricious under the Administrative Procedure Act (APA) and that EPA had failed to perform duties mandated by the Clean Water Act (''CWA'') with respect to Ohio's obligation to develop a Total Maximum Daily Load (''TMDL'') to address nutrient pollution in western Lake Erie. EPA seeks public input on a proposed consent decree prior to its final decision-making to settle the litigation.

DATES: Written comments on the proposed consent decree must be received by *December 12, 2022.*

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2022–0884 online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments, see the ''Additional Information About Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Thomas Glazer, Water Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone: (202) 564–0908; email address: *glazer.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

EPA approved Ohio's 2018 CWA section 303(d) list on July 9, 2018. The Environmental Law & Policy Center filed a complaint on February 7, 2019, challenging that approval as arbitrary and capricious on grounds alleging that the list did not give western Lake Erie a high enough priority for TMDL development. The complaint also alleged that Ohio constructively submitted no TMDL for Lake Erie, thereby triggering a mandatory duty by EPA to act. On June 21, 2019, the Court consolidated the complaint with another similar complaint from the Board of Lucas County Commissioners.

On February 13, 2020, Ohio initiated a public comment period on its draft 2020 303(d) list, which announced that it was making western Lake Erie a high priority for TMDL development and that the State would develop a TMDL addressing multiple segments of western Lake Erie impaired by nutrient pollution and algae for submission to EPA within the following 2–3 years. Following the public comment period, the State submitted its 2020 303(d) list to EPA, which approved the list on May 29, 2020, and since that time, the State has been developing the TMDL. See *https://epa.ohio.gov/divisions-and-offices/surface-water/reports-data/maumee-river-watershed.*

In the litigation, the parties completed summary judgment briefing in May 2020 and participated in oral argument on July 24 & July 30, 2020. Following oral argument, the parties initiated settlement discussions, which ultimately produced the proposed consent decree. The State is a party to the proposed consent decree and has agreed to intervene in the case so that it would be bound by its terms.

EPA and Ohio would each have obligations under the consent decree that work to create a binding schedule for the development of a TMDL to address the nutrient and algae impairments in western Lake Erie. The consent decree's schedule is based on the State's current projected timeline for completing the TMDL work it began in 2020. Under the decree, Ohio would be required to public notice a draft TMDL by December 31, 2022, with submission of a final TMDL to EPA to follow by June 30, 2023. EPA's obligations under the consent decree would be contingent upon Ohio's actions. If Ohio does not submit a final TMDL by June 30, 2023, and the deadline is not extended by the Court, EPA would be required to develop the TMDL within six months. The proposed consent decree also provides that if EPA disapproves the TMDL submission, Plaintiffs would not object to EPA taking up to six months to develop its own TMDL. Any of these deadlines may be extended by the Court on written finding of good cause.

For a period of thirty (30) days following the date of publication of this notice, EPA will accept written comments relating to the proposed consent decree from persons who are not parties to the litigation. EPA also may hold a public hearing on whether to enter into the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments received disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Clean Water Act or Administrative Procedure Act.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the proposed consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2022–0884) contains a copy of the Proposed Order. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the Proposed Order and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

B. How and to whom do I submit comments?

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2022–0884 via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that

is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Steven Neugeboren,

Associate General Counsel.

[FR Doc. 2022–24502 Filed 11–9–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–043]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed October 31, 2022 10 a.m. EST Through November 4, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20220160, Draft, FERC, ND, Wahpeton Expansion Project, Comment Period Ends: 12/27/2022, Contact: Office of External Affairs 866–208–3372.

EIS No. 20220161, Draft, APHIS, NAT, The State University of New York College of Environmental Science and Forestry Petition (19–309–01p) for Determination of Nonregulated Status for Blight-Tolerant Darling 58 American Chestnut (Castanea dentata), Comment Period Ends: 12/27/2022, Contact: Cindy Eck 301–851–3892.

EIS No. 20220162, Draft, USDA, OR, Predator Damage Management in Oregon, Comment Period Ends: 12/27/2022, Contact: Kevin Christensen 503–820–2751.

EIS No. 20220163, Draft, TxDOT, TX, Loop 9 Segment A, Comment Period Ends: 01/03/2023, Contact: Doug Booher 512–416–2663.

Amended Notice

EIS No. 20220139, Draft Supplement, USCG, MARAD, TX, Texas Gulflink Deepwater Port License Application, Comment Period Ends: 11/30/2022, Contact: Patrick Clark 202–372–1358.

Revision to FR Notice Published 09/30/2022; Extending the Comment Period from 11/14/2022 to 11/30/2022.

Dated: November 4, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–24552 Filed 11–9–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0742; FRL–9946–02–OCSPP]

Methylene Chloride; Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the final revision to the risk determination for the methylene chloride risk evaluation issued under the Toxic Substances Control Act (TSCA). The revision to the methylene chloride risk determination reflects the announced policy changes to ensure the public is protected from unreasonable risks from chemicals in a way that is supported by science and the law. EPA determined that methylene chloride, as a whole chemical substance, presents an unreasonable risk of injury to health when evaluated under its conditions of use. In addition, this revised risk determination does not reflect an assumption that workers always appropriately wear personal protective equipment (PPE). EPA understands that there could be occupational safety protections in place at workplace locations; however, not assuming use of PPE reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by Occupational Safety and Health Administration (OSHA) standards, or their employers are out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' or because the OSHA permissible exposure limit (PEL) alone may be inadequate for ensuring protection of worker health, or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements. This revision supersedes the condition of use-specific no unreasonable risk determinations in the June 2020 Methylene Chloride Risk Evaluation and withdraws the associated TSCA order included in the June 2020 Methylene Chloride Risk Evaluation.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0742, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Additional instructions on visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Ingrid Feustel, Office of Pollution Prevention and Toxics (7404M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–3199; email address: *Feustel.Ingrid@EPA.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to those involved in the manufacture, processing, distribution, use, disposal, and/or the assessment of risks involving chemical substances and mixtures. You may be potentially affected by this action if you manufacture (defined under TSCA to include import), process (including recycling), distribute in commerce, use or dispose of methylene chloride, including methylene chloride in products. Since other entities may also be interested in this revision to the risk determination, EPA has not attempted to describe all the specific entities that may be affected by this action.

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

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation (PESS) identified as relevant to the risk evaluation by the Administrator, under the conditions of use. 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence, and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information that is relevant to specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i) through (ii) and (iv) through (v). Each risk evaluation must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

EPA has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *see also Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983).

C. What action is EPA taking?

EPA is announcing the availability of the final revision to the risk determination for the methylene chloride risk evaluation issued under TSCA that published in June 2020 (Ref. 1). In July 2022, EPA sought public comment on the draft revisions (87 FR 39824, July 5, 2022). EPA appreciates the public comments received on the draft revision to the methylene chloride risk determination. After review of these comments and consideration of the specific circumstances of methylene chloride, EPA concludes that the Agency's risk determination for methylene chloride is better characterized as a whole chemical risk determination rather than condition-of-use-specific risk determinations. Accordingly, EPA is revising and replacing Section 5 of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2) where the findings of unreasonable risk to health were previously made for the individual conditions of use evaluated. EPA is also withdrawing the previously issued TSCA section 6(i)(l) order for six conditions of use previously determined not to present unreasonable risk which was included in Section 5.4.1 of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2).

This final revision to the methylene chloride risk determination is consistent with EPA's plans to revise specific aspects of the first ten TSCA chemical risk evaluations to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. As a result of this revision, removing the assumption that workers always and appropriately wear PPE (see Unit II.C.) means that: five additional conditions of use in addition to the original 47 drive the unreasonable risk determination for methylene chloride; inhalation risk to workers in addition to the previously identified inhalation risk to occupational non-users (ONUs) drive the unreasonable risk in three conditions of use; and additional risk to workers for acute and chronic non-cancer dermal exposures and for cancer from inhalation exposures also drive the unreasonable risk in many of those 52 conditions of use (where previously those conditions of use were identified as presenting unreasonable risk only for chronic non-cancer effects and/or acute effects). However, EPA is not making condition-of-use-specific risk determinations for those conditions of use, and for purposes of TSCA section 6(i), EPA is not issuing a final order under TSCA section 6(i)(1) and does not consider the revised risk determination to constitute a final agency action at this point in time. Overall, 52 conditions of use out of 53 EPA evaluated drive the methylene chloride whole chemical unreasonable risk determination due to risks identified for human health. The full list of the conditions of use evaluated for the methylene chloride TSCA risk evaluation is in Tables 4–2 and 4–3 of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2).

II. Background

A. Why is EPA re-issuing the risk determination for the methylene chloride risk evaluation conducted under TSCA?

In accordance with Executive Order 13990 (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 3, 4, 5, and 6), EPA reviewed the risk evaluations for the first ten chemical substances, including methylene chloride, to ensure that they meet the requirements of TSCA, including conducting decision-making in a manner that is consistent with the best available science.

As a result of this review, EPA announced plans to revise specific aspects of the first ten risk evaluations in order to ensure that the risk evaluations appropriately identify unreasonable risks and thereby help ensure the protection of human health and the environment (Ref. 7). Following a review of specific aspects of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2) and after considering

comments received on a draft revised risk determination for methylene chloride, EPA has determined that making an unreasonable risk determination for methylene chloride as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation, is the most appropriate approach for methylene chloride under the statute and implementing regulations. In addition, EPA's final risk determination is explicit insofar as it does not rely on assumptions regarding the use of PPE in making the unreasonable risk determination under TSCA section 6, even though some facilities might be using PPE as one means to reduce worker exposures; rather, the use of PPE as a means of addressing unreasonable risk will be considered during risk management, as appropriate.

Separately, EPA is conducting a screening approach to assess potential risks from the air and water pathways for several of the first 10 chemicals, including this chemical. For methylene chloride the exposure pathways that were or could be regulated under another EPA administered statute were excluded from the final risk evaluation (see section 1.4.2 of the June 2020 Methylene Chloride Risk Evaluation). This resulted in the surface water, drinking water and ambient air pathways for methylene chloride not being assessed. The goal of the recently-developed screening approach is to remedy this exclusion and to identify if there may be risks that were unaccounted for in the methylene chloride risk evaluation.

The screening-level approach has gone through public comment and independent external peer review through the SACC. The Agency received the final peer review report on May 18, 2022, and has reviewed public comments and SACC comments. EPA expects to describe its views regarding the chemical-specific application of this screening-level approach in the forthcoming proposed rule under TSCA section 6(a) for methylene chloride.

This action pertains only to the risk determination for methylene chloride. While EPA intends to consider and may take additional similar actions on other of the first ten chemicals, EPA is taking a chemical-specific approach to reviewing these risk evaluations and is incorporating new policy direction in a surgical manner, while being mindful of Congressional direction on the need to complete risk evaluations and move toward any associated risk management activities in accordance with statutory deadlines.

B. What is a whole chemical view of the unreasonable risk determination for the methylene chloride risk evaluation?

TSCA section 6 repeatedly refers to determining whether a chemical *substance* presents unreasonable risk under its conditions of use. Stakeholders have disagreed over whether a chemical substance should receive: A single determination that is comprehensive for the chemical substance after considering the conditions of use, referred to as a whole-chemical determination; or multiple determinations, each of which is specific to a condition of use, referred to as condition-of-use-specific determinations.

As explained in the **Federal Register** document announcing the availability of the draft revised risk determination for methylene chloride (87 FR 39824, July 5, 2022 (FRL–9946–01–OCSPP)), the proposed Risk Evaluation Procedural Rule (Ref. 8) was premised on the whole chemical approach to making unreasonable risk determinations. In that proposed rule, EPA acknowledged a lack of specificity in statutory text that might lead to different views about whether the statute compelled EPA's risk evaluations to address all conditions of use of a chemical substance or whether EPA had discretion to evaluate some subset of conditions of use (*i.e.,* to scope out some manufacturing, processing, distribution in commerce, use, or disposal activities), but also stated that ''EPA believes the word 'the' [in TSCA section 6(b)(4)(A)] is best interpreted as calling for evaluation that considers all conditions of use.'' The proposed rule, however, was unambiguous on the point that unreasonable risk determinations would be for the chemical substance as a whole, even if based on a subset of uses. See Ref. 8 at pages 7565–66 (''TSCA section 6(b)(4)(A) specifies that a risk evaluation must determine whether 'a chemical substance' presents an unreasonable risk of injury to health or the environment 'under the conditions of use.' The evaluation is on the chemical substance—not individual conditions of use—and it must be based on 'the conditions of use.' In this context, EPA believes the word 'the' is best interpreted as calling for evaluation that considers all conditions of use.''). In the proposed regulatory text, EPA proposed to determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use. (Ref. 8 at 7480.)

The final Risk Evaluation Procedural Rule stated (82 FR 33726, July 20, 2017 (FRL–9964–38)) (Ref. 9): ''As part of the risk evaluation, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (40 CFR 702.47). For the unreasonable risk determinations in the first ten risk evaluations, EPA applied this provision by making individual risk determinations for each condition of use evaluated as part of each risk evaluation document (*i.e.,* the condition-of-use-specific approach to risk determinations). That approach was based on one particular passage in the preamble to the final Risk Evaluation Rule which stated that EPA will make individual risk determinations for all conditions of use identified in the scope. (Ref. 9 at 33744).

In contrast to this portion of the preamble of the final Risk Evaluation Rule, the regulatory text itself and other statements in the preamble reference a risk determination *for the chemical substance* under its conditions of use, rather than separate risk determinations for each of the conditions of use of a chemical substance. In the key regulatory provision excerpted previously from 40 CFR 702.47, the text explains that ''[a]s part of the risk evaluation, EPA will determine whether *the chemical substance* presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (Ref. 9, emphasis added). Other language reiterates this perspective. For example, 40 CFR 702.31(a) states that the purpose of the rule is to establish the EPA process for conducting a risk evaluation to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment as required under TSCA section 6(b)(4)(B). Likewise, there are recurring references to whether the chemical substance presents an unreasonable risk in 40 CFR 702.41(a). See, for example, 40 CFR 702.41(a)(6), which explains that the extent to which EPA will refine its evaluations for one or more condition of use in any risk evaluation will vary as necessary to determine whether a chemical substance presents an unreasonable risk. Notwithstanding the one preambular statement about condition-of-use-specific risk

determinations, the preamble to the final rule also contains support for a risk determination on the chemical substance as a whole. In discussing the identification of the conditions of use of a chemical substance, the preamble notes that this task inevitably involves the exercise of discretion on EPA's part, and ''as EPA interprets the statute, the Agency is to exercise that discretion consistent with the objective of conducting a technically sound, manageable evaluation to determine whether a chemical substance—not just individual uses or activities—presents an unreasonable risk'' (Ref. 9 at 33729).

Therefore, notwithstanding EPA's choice to issue condition-of-use-specific risk determinations to date, EPA interprets its risk evaluation regulation to also allow the Agency to issue whole-chemical risk determinations. Either approach is permissible under the regulation. A panel of the Ninth Circuit Court of Appeals also recognized the ambiguity of the regulation on this point. *Safer Chemicals* v. *EPA,* 943 F.3d. 397, 413 (9th Cir. 2019) (holding a challenge about ''use-by-use risk evaluations [was] not justiciable because it is not clear, due to the ambiguous text of the Risk Evaluation Rule, whether the Agency will actually conduct risk evaluations in the manner Petitioners fear'').

EPA plans to consider the appropriate approach for each chemical substance risk evaluation on a case-by-case basis, taking into account considerations relevant to the specific chemical substance in light of the Agency's obligations under TSCA. The Agency expects that this case-by-case approach will provide greater flexibility in the Agency's ability to evaluate and manage unreasonable risk from individual chemical substances. EPA believes this is a reasonable approach under TSCA and the Agency's implementing regulations.

With regard to the specific circumstances of methylene chloride, EPA has determined that a whole chemical approach is appropriate for methylene chloride in order to protect health. The whole chemical approach is appropriate for methylene chloride because there are benchmark exceedances for a substantial number of conditions of use (spanning across most aspects of the chemical lifecycle–from manufacturing (including import), processing, industrial and commercial use, consumer use, and disposal) for workers, occupational non-users, consumers, and bystanders and irreversible health effects (specifically cancer, coma, hypoxia, and death) associated with methylene chloride exposures. Because these chemical-specific properties cut across the conditions of use within the scope of the risk evaluation, a substantial number of the conditions of use drive the unreasonable risk; therefore, it is appropriate for the Agency to make a determination for methylene chloride that the whole chemical presents an unreasonable risk.

As explained later in this document, the revisions to the unreasonable risk determination (Section 5 of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2)) follow the issuance of a draft revision to the TSCA methylene chloride unreasonable risk determination (87 FR 39824, July 5, 2022) and the receipt of public comment. A response to comments document is also being issued with the final revised unreasonable risk determination for methylene chloride (Ref. 10). The revisions to the unreasonable risk determination are based on the existing risk characterization section of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2) (Section 4) and do not involve additional technical or scientific analysis. The discussion of the issues in this **Federal Register** document and in the accompanying final revised risk determination for methylene chloride supersede any conflicting statements in the June 2020 Methylene Chloride Risk Evaluation (Ref. 2) and the earlier response to comments document (Ref. 11). EPA views the peer reviewed hazard and exposure assessments and associated risk characterization as robust and upholding the standards of best available science and weight of the scientific evidence per TSCA sections 26(h) and (i).

For purposes of TSCA section 6(i), EPA is making a risk determination on methylene chloride as a whole chemical. Under the revised approach, the ''whole chemical'' risk determination for methylene chloride supersedes the no unreasonable risk determinations for methylene chloride that were premised on a condition-of-use-specific approach to determining unreasonable risk and also contains an order withdrawing the TSCA section 6(i)(1) order in Section 5.4.1 of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2).

C. What revision is EPA now making final about the use of PPE for the methylene chloride risk evaluation?

In the risk evaluations for the first ten chemical substances, as part of the unreasonable risk determination, EPA assumed for several conditions of use that workers were provided and always used PPE in a manner that achieves the stated assigned protection factor (APF) for respiratory protection, or used impervious gloves for dermal protection. In support of this assumption, EPA used reasonably available information such as public comments indicating that some employers, particularly in the industrial setting, provide PPE to their employees and follow established worker protection standards (*e.g.,* OSHA requirements for protection of workers).

For the June 2020 Methylene Chloride Risk Evaluation (Ref. 2), EPA assumed, based on reasonably available information, including public comment and safety data sheets for methylene chloride, that workers use PPE—specifically respirators with an APF ranging from 25 to 50—for 26 occupational conditions of use and gloves with PF 10 or 20 for 39 occupational conditions of use. However, in the June 2020 Methylene Chloride Risk Evaluation, EPA determined that there is unreasonable risk to workers for 32 of those conditions of use.

EPA is revising the assumption for methylene chloride that workers always and properly use PPE, although it does not question the public comments received regarding the occupational safety practices often followed by industry respondents. When characterizing the risk to human health from occupational exposures during risk evaluation under TSCA, EPA believes it is appropriate to evaluate the levels of risk present in baseline scenarios where PPE is not assumed to be used by workers. This approach of not assuming PPE use by workers considers the risk to potentially exposed or susceptible subpopulations of workers who may not be covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan. It should be noted that, in some cases, baseline conditions may reflect certain mitigation measures, such as engineering controls, in instances where exposure estimates are based on monitoring data at facilities that have engineering controls in place.

In addition, EPA believes it is appropriate to evaluate the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific permissible exposure limits (PELs) and/or chemical-specific PELs with additional substance-specific standards), as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. Consistent with this approach, the June 2020 Methylene Chloride Risk

Evaluation (Ref. 2) characterized risk to workers both with and without the use of PPE. By characterizing risks using scenarios that reflect different levels of mitigation, EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address any unreasonable risk identified, or to ensure that applicable OSHA requirements or industry or sector best practices that address the unreasonable risk are required for all potentially exposed and susceptible subpopulations (including self-employed individuals and public sector workers who are not covered by an OSHA State Plan).

When undertaking unreasonable risk determinations as part of TSCA risk evaluations, however, EPA does not believe it is appropriate to assume as a general matter that an applicable OSHA requirement or industry practice related to PPE use is consistently and always properly applied. Mitigation scenarios included in the EPA risk evaluation (*e.g.,* scenarios considering use of various PPE) likely represent what is happening already in some facilities. However, the Agency cannot assume that all facilities have adopted these practices for the purposes of making the TSCA risk determination (Ref. 12).

Therefore, EPA is making a determination of unreasonable risk for methylene chloride from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. Making unreasonable risk determinations based on the baseline scenario should not be viewed as an indication that EPA believes there are no occupational safety protections in place at any location, or that there is widespread non-compliance with applicable OSHA standards. Rather, it reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan, or because their employer is out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' (Ref. 13) or because the OSHA Permissible Exposure Limit alone may be inadequate to protect human health, or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements.

In accordance with this approach, EPA is finalizing the revision to the methylene chloride risk determination without relying on assumptions regarding the occupational use of PPE in making the unreasonable risk determination under TSCA section 6; rather, information on the use of PPE as a means of mitigating risk (including public comments received from industry respondents about occupational safety practices in use) will be considered during the risk management phase, as appropriate. This represents a change from the approach taken in the June 2020 Methylene Chloride Risk Evaluation (Ref. 2). As a general matter, when undertaking risk management actions, EPA intends to strive for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, to the extent that applying those measures would address the identified unreasonable risk, including unreasonable risk to potentially exposed or susceptible subpopulations. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements. Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may be already common practice in many or most facilities. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or be sufficient to address the unreasonable risk.

Removing the assumption that workers always and appropriately wear PPE in making the whole chemical risk determination for methylene chloride means that: five conditions of use in addition to the original 47 conditions of use drive the unreasonable risk for methylene chloride; an additional route of exposure (*i.e.,* inhalation) is also identified as driving the unreasonable risk to workers in three conditions of use in addition to the previously identified inhalation risk to occupational non-users; and additional risks to workers for acute and chronic non-cancer dermal exposures and for cancer from inhalation exposures also drive the unreasonable risk in many of those 52 conditions of use (where previously those conditions of use were identified as presenting unreasonable risk only for chronic non-cancer effects and/or acute effects). The finalized revision to the methylene chloride risk determination clarifies that EPA does not rely on the assumed use of PPE when making the risk determination for the whole substance.

D. What is methylene chloride?

Methylene chloride, which is also called dichloromethane, is a volatile chemical that is produced and imported into the United States, with use estimated at over 260 million pounds per year. It is a solvent used in a variety of industries and applications, such as adhesives, paint and coating products, metal cleaning, chemical processing, and aerosols. In addition, it is used as a propellent, processing aid, or functional fluid in the manufacturing of other chemicals. A variety of consumer and commercial products use methylene chloride as a solvent including sealants, automotive products, and paint and coating removers. Methylene chloride is subject to federal and state regulations and reporting requirements.

E. What conclusions is EPA finalizing today in the revised TSCA risk evaluation based on the whole chemical approach and not assuming the use of PPE?

EPA determined that methylene chloride presents an unreasonable risk to health under the conditions of use. EPA's unreasonable risk determination for methylene chloride as a chemical substance is driven by risks associated with the following conditions of use, considered singularly or in combination with other exposures:

- Manufacturing—Domestic manufacture;
- Manufacturing—Import;
- Processing into a formulation, mixture, or reaction product;
- Processing as a reactant;
- Processing: recycling;
- Repackaging;
- Industrial and commercial use as solvent for batch vapor degreasing;
- Industrial and commercial use as solvent for in-line vapor degreasing;
- Industrial and commercial use as solvent for cold cleaning; and commercial use as a solvent for aerosol spray degreasers/cleaners;
- Industrial and commercial use in adhesives, sealants, and caulks;
- Industrial and commercial use in paints and coatings;
- Industrial and commercial use in paint and coating removers;

- Industrial and commercial use in adhesive and caulk removers;
- Industrial and commercial use as metal aerosol degreasers;
- Industrial and commercial use in metal non-aerosol degreasers;
- Industrial and commercial use in finishing products for fabric, textiles, and leather;
- Industrial and commercial use in automotive care products (functional fluids for air conditioners);
- Industrial and commercial use in automotive care products (interior car care);
- Industrial and commercial use in automotive care products (degreasers);
- Industrial and commercial use in apparel and footwear care products;
- Industrial and commercial use in spot removers for apparel and textiles;
- Industrial and commercial use in liquid lubricants and greases;
- Industrial and commercial use in spray lubricants and greases;
- Industrial and commercial use in aerosol degreasers and cleaners;
- Industrial and commercial use in non-aerosol degreasers and cleaners;
- Industrial and commercial use in cold pipe insulations;
- Industrial and commercial use as solvent that becomes part of a formulation or mixture;
- Industrial and commercial use as a processing aid;
- Industrial and commercial use as propellant and blowing agent;
- Industrial and commercial use for electrical equipment, appliance, and component manufacturing;
- Industrial and commercial use for plastic and rubber products manufacturing;
- Industrial and commercial use for cellulose triacetate film production;
- Industrial and commercial use as anti-spatter welding aerosol;
- Industrial and commercial use for oil and gas drilling, extraction, and support activities;
- Industrial and commercial uses for toys, playgrounds, and sporting equipments (including novelty articles);
- Industrial and commercial use for carbon removers, wood floor cleaners, and brush cleaners;
- Industrial and commercial use as a lithographic printing plate cleaner;
- Industrial and commercial use as a laboratory chemical;
- Consumer use as a solvent in an aerosol cleaner/degreaser;
- Consumer use in adhesives and sealants;
- Consumer use in paints and coatings (brush cleaners for paints and coatings);
- Consumer use in adhesives/caulk removers;
- Consumer use in aerosol and non-aerosol metal degreasers;
- Consumer use in automotive functional fluids (air conditioners refrigerant, treatment, leak sealer);
- Consumer use in automotive degreasers (gasket remover, transmission cleaners, carburetor);
- Consumer use in aerosol and non-aerosol lubricants and greases, consumer use in cold pipe insulation;
- Consumer use in aerosol and non-aerosol lubricants/greases and aerosol and non-aerosol degreaser/cleaners;
- Consumer use in cold pipe insulation;
- Consumer use in crafting glue and cement/concrete;
- Consumer use in anti-adhesive agent—anti-spatter welding aerosol;
- Consumer use in carbon remover and brush cleaner; and
- Disposal.

The following condition of use does not drive EPA's unreasonable risk determination for methylene chloride:

- Distribution in commerce.

EPA is not making a condition of use-specific risk determination for this condition of use, is not issuing a final order under TSCA section 6(i)(1) for this condition of use, and does not consider the revised risk determination for methylene chloride to constitute a final agency action at this point in time.

Consistent with the statutory requirements of TSCA section 6(a), EPA will propose a risk management regulatory action to the extent necessary so that methylene chloride no longer presents an unreasonable risk. EPA expects to focus its risk management action on the conditions of use that drive the unreasonable risk. However, it should be noted that, under TSCA section 6(a), EPA is not limited to regulating the specific activities found to drive unreasonable risk and may select from among a suite of risk management requirements in section 6(a) related to manufacture (including import), processing, distribution in commerce, commercial use, and disposal as part of its regulatory options to address the unreasonable risk. As a general example, EPA may regulate upstream activities (*e.g.,* processing, distribution in commerce) to address downstream activities (*e.g.,* consumer uses) driving unreasonable risk, even if the upstream activities do not drive the unreasonable risk.

III. Summary of Public Comments

EPA received a total of 20 public comments on the July 5, 2022, draft revised risk determination for methylene chloride during the comment period that ended August 4, 2022, of which 19 were unique and responsive to the request for comments. Commenters included trade organizations, industry stakeholders, environmental groups, and non-governmental health advocacy organizations. A separate document that summarizes all comments submitted and EPA's responses to those comments has been prepared and is available in the docket for this notice (Ref. 10).

IV. Revision of the June 2020 Methylene Chloride Risk Evaluation

A. Why is EPA revising the risk determination for the methylene chloride risk evaluation?

EPA is finalizing the revised risk determination for the methylene chloride risk evaluation pursuant to TSCA section 6(b) and consistent with Executive Order 13990, (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 3, 4, 5, and 6). EPA is revising specific aspects of the first ten TSCA existing chemical risk evaluations in order to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. For the methylene chloride risk evaluation, this includes: (1) Making the risk determination in this instance based on the whole chemical substance instead of by individual conditions of use and (2) Emphasizing that EPA does not rely on the assumed use of PPE when making the risk determination.

B. What are the revisions?

EPA is now finalizing the revised risk determination for the June 2020 Methylene Chloride Risk Evaluation (Ref. 2) pursuant to TSCA section 6(b). Under the revised determination (Ref. 1), EPA concludes that methylene chloride, as evaluated in the risk evaluation as a whole, presents an unreasonable risk of injury to health when evaluated under its conditions of use. This revision replaces the previous unreasonable risk determinations made for methylene chloride by individual conditions of use, supersedes the determinations (and withdraws the associated order) of no unreasonable risk for the conditions of use identified in the TSCA section 6(i)(1) no unreasonable risk order, and clarifies the lack of reliance on assumed use of PPE as part of the risk determination.

These revisions do not alter any of the underlying technical or scientific information that informs the risk characterization, and as such the hazard, exposure, and risk characterization sections are not

changed, except to statements about PPE assumptions in Section 2.4.1.1 (Consideration of Engineering Controls and PPE). The discussion of the issues in this *Notice* and in the accompanying final revision to the risk determination supersede any conflicting statements in the prior executive summary, and Section 2.4.1.1 from the June 2020 Methylene Chloride Risk Evaluation (Ref. 2) and the response to comments document (Ref. 11).

The revised unreasonable risk determination for methylene chloride includes additional explanation of how the risk evaluation characterizes the applicable OSHA requirements, or industry or sector best practices, and also clarifies that no additional analysis was done, and the risk determination is based on the risk characterization (Section 4) of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2).

C. Will the revised risk determination be peer reviewed?

The risk determination (Section 5 of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2)) was not part of the scope of the Science Advisory Committee on Chemicals (SACC) peer review of the methylene chloride risk evaluation. Thus, consistent with that approach, EPA did not conduct peer review of the final revised unreasonable risk determination for the methylene chloride risk evaluation because no technical or scientific changes were made to the hazard or exposure assessments or the risk characterization.

V. Order Withdrawing Previous Order Regarding Unreasonable Risk Determinations for Certain Conditions of Use

EPA is also issuing a new order to withdraw the TSCA Section 6(i)(1) no unreasonable risk order issued in Section 5.4.1 of the 2020 methylene chloride Risk Evaluation (Ref. 2). This final revised risk determination supersedes the condition of use-specific no unreasonable risk determinations in the June 2020 Methylene Chloride Risk Evaluation (Ref. 2). The order contained in Section 5.5 of the revised risk determination (Ref. 1) withdraws the TSCA section 6(i)(1) order contained in Section 5.4.1 of the June 2020 Methylene Chloride Risk Evaluation (Ref. 2). Consistent with the statutory requirements of section 6(a), the Agency will propose risk management action to address the unreasonable risk determined in the methylene chloride risk evaluation.

VI. References

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

1. EPA. Unreasonable Risk Determination for Methylene Chloride. October 2022.
2. EPA. Risk Evaluation for Methylene Chloride. June 2020. EPA Document #740–R1–8010. *https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0437-0107.*
3. Executive Order 13990. Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. **Federal Register** (86 FR 7037, January 25, 2021).
4. Executive Order 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. **Federal Register** (86 FR 7009, January 25, 2021).
5. Executive Order 14008. Tackling the Climate Crisis at Home and Abroad. **Federal Register** (86 FR 7619, February 1, 2021).
6. Presidential Memorandum. Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking. **Federal Register** (86 FR 8845, February 10, 2021).
7. EPA. Press Release: EPA Announces Path Forward for TSCA Chemical Risk Evaluations. June 2021. *https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations.*
8. EPA. Proposed Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register** (82 FR 7562, January 19, 2017) (FRL–9957–75).
9. EPA. Final Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register** (82 FR 33726, 33744, July 20, 2017).
10. EPA. Response to Public Comments to the Revised Unreasonable Risk Determination; Methylene Chloride (MC). October 2022.
11. EPA. Summary of External Peer Review and Public Comments and Disposition for Methylene Chloride (MC). June 2020. Available at: *https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0437-0083.*
12. Occupational Safety and Health Administration (OSHA). Top 10 Most Frequently Cited Standards for Fiscal Year 2021 (Oct. 1, 2020, to Sept. 30, 2021). Accessed October 13, 2022. *https://www.osha.gov/top10cited standards*
13. OSHA. Permissible Exposure Limits—Annotated Tables. Accessed June 13, 2022. *https://www.osha.gov/annotated-pels.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: November 4, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Existing Collection

AGENCY: Equal Employment Opportunity Commission

ACTION: Notice of information collection—Proposed revision of the Employer Information Report (EEO–1) Component 1.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request for a three-year PRA approval of revisions to the currently approved Component 1 of the Employer Information Report (EEO–1).[1] This PRA submission for the EEO–1 Component 1 does not change the types of demographic workforce data historically collected by the EEO–1 (*i.e.,* employee data by job category and sex and race or ethnicity). Rather, as part of this routine three-year clearance for Component 1 under the PRA, the EEOC seeks OMB approval of measures that streamline and modernize how the current EEO–1 Component 1 workforce demographic data are collected from employers.

DATES: Written comments on this notice must be submitted on or before January 9, 2023.

[1] Component 1 of the EEO–1 refers to the demographic data the EEOC has collected since 1966. The EEOC called its historic, first-time collection of pay data from certain private employers and federal contractors Component 2 of the EEO–1. The Component 2 collection was completed in February 2020. On July 28, 2022, the National Academies of Sciences, Engineering, and Medicine (NASEM) issued a Consensus Study Report evaluating the Component 2 pay data collection and providing recommendations for future data collections. The EEOC is carefully evaluating NASEM's recommendations as they relate to the EEO–1 Component 1 data collection and may request modification of the EEO–1 Component 1 collection in the future. The Consensus Report is available at *https://nap.nationalacademies.org/catalog/26581/evaluation-of-compensation-data-collected-through-the-eeo-1-form.*

ADDRESSES: You may submit comments by any of the following methods—please use only one method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions on the website for submitting comments.

Mail: Comments may be submitted by mail to Shelley Kahn, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE, Washington, DC 20507.

Fax: Comments totaling six or fewer pages can be sent by facsimile (''fax'') machine to (202) 663–4114 (this is not a toll-free number). Receipt of fax transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 921–2815 (voice) (this is not a toll-free number) or 800–669–6820 (TTY).

Instructions: All comments received must include the agency name and docket number. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. However, the EEOC reserves the right to refrain from posting libelous or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products.

Copies of comments received are also available for review at the Commission's library. Copies of comments received in response to this notice will be made available for viewing by appointment only at 131 M Street NE, Suite 4NW08R, Washington, DC 20507. Members of the public may schedule an appointment by sending an email to the following address: *OEDA@eeoc.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Guerino, Director, Data Development and Information Products Division, Office of Enterprise Data and Analytics (OEDA), Equal Employment Opportunity Commission, 131 M Street NE, Washington, DC 20507; (202) 921–2928 (voice), (800) 669–6820 (TTY) or email at *OEDA@eeoc.gov.* Requests for this notice in an alternative format should be made to the EEOC's Office of Communications and Legislative Affairs (OCLA) at (202) 921–3191 (voice), (800) 669–6820 (TTY), or (844) 234–5122 (ASL Video Phone).

SUPPLEMENTARY INFORMATION: Since 1966, the EEOC has required EEO–1 filers to submit workforce demographic data (Component 1) on an annual basis. All private employers that are covered by Title VII of the Civil Rights Act of 1964, as amended (Title VII) [2] and that have 100 or more employees are required to file the workforce demographic Component 1 data. In addition, Office of Federal Contract Compliance Programs (OFCCP) regulations require certain federal contractors to file the EEO–1 if they have 50 or more employees and are not exempt as provided for by 41 CFR 60–1.5.[3]

Pursuant to the PRA and OMB regulations found at 5 CFR 1320.8(d)(1), the Commission solicits public comment on its intent to seek a three-year approval of revisions to the currently approved EEO–1 Component 1 to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility; (2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Based on data trends over the last three EEO–1 Component 1 data collection reporting years (*i.e.,* 2019, 2020, 2021), as well as ongoing updates by the EEOC to the EEO–1 Component 1 frame (*i.e.,* filer roster or master list), the EEOC believes the total number of filers submitting at least one report may increase to 110,000. Accordingly, the EEOC is calculating the burden estimates in this Notice based on this revised estimate of the number of filers.

Overview of Information Collection

Collection Title: Employer Information Report (EEO–1) Component 1.

OMB Number: 3046–0049.

Frequency of Report: Annual.

Type of Respondent: Private employers with 100 or more employees and federal contractors that have 50 or more employees and meet certain criteria.

Description of Affected Public: Private employers with 100 or more employees and federal contractors that have 50 or more employees and meet certain criteria.

Reporting Hours: 5,238,467 hours per annual collection

Respondent Burden Hour Cost: $272,275,151.80 per annual collection.[4]

Federal Cost: $4,113,388.55 per annual collection.

Number of Filers: 110,000 per annual collection.[5]

Number of Responses: 2,235,938 reports per annual collection.[6]

Number of Forms: 1.

Form Number: EEOC Standard Form 100 (SF 100).

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964 (Title VII) requires employers to make and keep records relevant to the determination of whether unlawful employment practices have been or are being committed, to preserve such records, and to produce

[2] 42 U.S.C. 2000e, *et seq.*

[3] Unless otherwise noted, the term ''contractor'' refers to federal contractors and first-tier subcontractors that satisfy the employee and contract size coverage criteria that subject them to EEO–1 Component 1 reporting obligations. The terms ''private employers'' and ''private industry'' refer to all other entities required to file the EEO–1 Component 1 that are not included in the ''contractor'' designation. The terms ''employer'' and ''filer'' refer collectively to all entities that are required to file EEO–1 Component 1 data.

[4] This estimate is based on the most recent median pay data from the U.S. Bureau of Labor Statistics. The EEOC estimated that a computer network specialist accounts for 60% of the estimated hourly wage; a database administrator and architect would account for 20%; an HR specialist would account for 10%; legal counsel would account for 5%, and a CEO would account for 5%, yielding a total estimated hourly wage of $34.66. *See* U.S. Dept. of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook, https://www.bls.gov/ooh/.* Wages cited are median hourly wages.

[5] This estimate is based on the number of filers who were identified as being potentially eligible at the end of the 2019 and 2020 EEO–1 Component 1 data collections (approximately 90,000 filers) and at the end of the 2021 EEO–1 Component 1 data collection cycle (approximately 98,000 filers). Based on the increases over the last three EEO–1 Component 1 data collection cycles, as well as ongoing updates by the EEOC to the frame (*i.e.,* filer roster or master list), the EEOC estimates an increase of 12,000 potentially eligible filers from the 2021 EEO–1 Component 1 data collection.

[6] In the prior EEO–1 Component 1 Information Collection Review (ICR) for reporting years 2019, 2020, and 2021, the term ''records'' was used interchangeably with the term ''reports'' to refer to the ''reports'' submitted by filers. Beginning with the ICR for reporting years 2022, 2023, and 2024, the EEOC will no longer use the term ''records'' to refer to ''reports'' submitted by filers. For the proposed EEO–1 Component 1 data collections for reporting years 2022, 2023, and 2024, ''reports'' include the following types of reports: a ''Single-Establishment Filer Report'' (formerly referred to as a ''Type 1'' Report); a ''Consolidated Report'' (formerly referred to as a ''Type 2'' Report); a ''Headquarters Report'' (formerly referred to as a ''Type 3'' Report); and an ''Establishment-Level Report'' (formerly referred to as a ''Type 4'' Report for establishments with 50 or more employees and a ''Type 8'' Report for establishments with fewer than 50 employees).

reports as the Commission prescribes by regulation or order.[7] Pursuant to this statutory authority, the EEOC in 1966 issued a regulation requiring certain employers to file executed copies of the EEO–1 in conformity with the directions and instructions on the form, which called for reporting employee data by job category and by sex and race or ethnicity.[8] Pursuant to Executive Order 11246,[9] the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, in 1978 issued its regulation describing the EEO–1 as a report ''promulgated jointly with the Equal Employment Opportunity Commission'' and requiring certain contractors to submit ''complete and accurate reports'' annually.[10] Under these authorities, private employers with 100 or more employees and federal contractors that have 50 or more employees and meet certain criteria are required to report annually the number of individuals they employ by job category [11] and by sex and race or ethnicity.[12] These data are currently collected electronically by the EEOC through a web-based data collection application (*i.e.,* portal) referred to as the *EEO–1 Component 1 Online Filing System.*[13] Filers must submit their data electronically to the web-based portal through either manual entry or the upload of a data file. The individual EEO–1 reports are confidential.[14] EEO–1 data are used by the EEOC to investigate charges of employment discrimination against employers in private industry and to publish periodic reports on workforce demographics.[15]

Burden Statement: The methodology used in this Notice to calculate the burden for the collection of EEO–1 Component 1 data is to separate Single-Establishment and Multi-Establishment filers and calculate the burden by considering the following factors: (1) the type of filer (*i.e.,* Single-Establishment or Multi-Establishment filer);[16] (2) the combination of report types submitted by the filer (*i.e.,* ''Single-Establishment Filer Report'' or, for Multi-Establishment filers, the ''Consolidated Report,'' ''Headquarters Report,'' and ''Establishment-Level Report(s)'');[17] and (3) the total number of reports filers will

[7] 42 U.S.C. 2000e–8(c).

[8] The EEOC's EEO–1 regulation is at 29 CFR part 1602 Subpart B. The EEOC is responsible for obtaining OMB's PRA approval for the EEO–1 report.

[9] Exec. Order No. 11246, 30 FR 12319 (Sept. 24, 1965).

[10] 41 CFR 60–1.7(a). OFCCP obtains EEO–1 reports for federal contractors and subcontractors (contractors) pursuant to its own legal authority under E.O. 11246 and its implementing regulations. *See id* at 60–1.7(a)(1). Because OFCCP obtains EEO–1 data for contractors under its own E.O. 11246 authority, some courts have ruled that the Title VII prohibition against disclosure does not apply to OFCCP's collection of EEO–1 data. *See, e.g., United Techs. Corp.* v. *Marshall,* 464 F. Supp. 845, 851–52 (D. Conn. 1979); *Sears Roebuck & Co.* v. *Gen. Servs. Admin.,* 509 F.2d 527, 529 (D.C. Cir. 1974). Accordingly, the EEO–1 data of federal contractors received by OFCCP may be subject to potential disclosure by OFCCP under the Freedom of Information Act (FOIA), although FOIA exemptions may prevent disclosure. There is currently pending before OFCCP a FOIA request by a journalist for Type 2 Consolidated EEO–1 Reports submitted by federal contractors and first-tier subcontractors from 2016–2020. In previous litigation between OFCCP and the FOIA requester, the district court held that the evidence did not support a finding that the EEO–1 Type 2 reports were commercial, and thus the 10 Type 2 EEO–1 reports at issue in that case could not be withheld under FOIA Exemption 4. *See Ctr for Investigative Reporting* v. *Dep't of Labor,* 424 F. Supp. 3d 771, 778–79 (N.D. Cal. 2019). In response to the current FOIA request, OFCCP notified federal contractors and first-tier subcontractors that if they object to disclosure of their reports, they should submit objections to OFCCP by October 19, 2022. *See* Federal Register:: Notice of Request Under the Freedom of Information Act for Federal Contractors' Type 2 Consolidated EEO–1 Report Data. For more information, see the Department of Labor's FOIA regulations at 41 CFR part 70 and frequently asked questions (Freedom of Information Act (FOIA) Frequently Asked Questions | U.S. Department of Labor (*dol.gov*)).

[11] The 10 job categories are: Executive/Senior Level Officials and Managers; First/Mid-Level Officials and Managers; Professionals; Technicians; Sales Workers; Administrative Support Workers; Craft Workers; Operatives; Laborers and Helpers; and Service Workers.

[12] The EEO–1 uses federal race and ethnicity categories, which were adopted by the Commission in 2005 and implemented in 2007. The seven race/ethnicity categories are: *Hispanic or Latino*—A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race. *White* (*Not Hispanic or Latino*)—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. *Black or African American* (*Not Hispanic or Latino*)—A person having origins in any of the black racial groups of Africa. *Native Hawaiian or Other Pacific Islander* (*Not Hispanic or Latino*)—A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands. *Asian* (*Not Hispanic or Latino*)—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. *American Indian or Alaska Native* (*Not Hispanic or Latino*)—A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment. *Two or More Races* (*Not Hispanic or Latino*)—All persons who identify with more than one of the above five races. OMB is in the process of reviewing and revising its standards for maintaining, collecting, and presenting federal data on race and ethnicity. *See https://www.whitehouse.gov/omb/briefing-room/2022/06/15/reviewing-and-revising-standards-for-maintaining-collecting-and-presenting-federal-data-on-race-and-ethnicity/.* The EEOC will carefully consider the revision to the federal standards for collecting race and ethnicity data, which are expected by summer 2024, for use in future data collections.

[13] EEO–1 filers may access the *EEO–1 Component 1 Online Filing System* through the EEOC's dedicated EEO–1 Component 1 website at *www.eeocdata.org/eeo1.*

[14] All reports and any information from individual reports are subject to the confidentiality provisions of Section 709(e) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–8(e), as amended (Title VII) and may not be made public by the EEOC prior to the institution of any proceeding under Title VII involving the EEO–1 Component 1 data. Any EEOC employee who violates this prohibition may be found guilty of a criminal misdemeanor and could be fined or imprisoned. The confidentiality requirements allow the EEOC to publish only aggregated data, and only in a manner that does not identify any particular filer or reveal any individual employee's personal information. With respect to other federal agencies with a legitimate law enforcement purpose but without OFCCP's independent authority to collect EEO–1 data, the EEOC gives access to information collected under Title VII only if the agencies agree, by letter or memorandum of understanding, to comply with the confidentiality provisions of Title VII. In addition, section 709(d) (42 U.S.C. 2000e–8(d) provides that the EEOC shall furnish upon request and without cost to state or local civil rights agencies information about employers in their jurisdiction on the condition that they not make it public prior to starting a proceeding under state or local law involving such information. The EEOC shares EEO–1 data with Fair Employment Practices Agencies (FEPAs) pursuant to Worksharing Agreements that impose obligations on the contracted FEPA with respect to confidentiality, privacy, and data security. On a case-by-case basis, the EEOC may share EEO–1 data with a FEPA that does not have a Worksharing Agreement, but only if that FEPA agrees to comply with confidentiality, privacy, and data security obligations similar to those imposed on FEPAs with Worksharing Agreements.

[15] Any reports the EEOC publishes based on EEO–1 data include only aggregated EEO–1 data that protect the confidentiality of each employer's information, as well as the privacy of each employee's personal information.

[16] An establishment is an economic unit that produces goods or services, at a single physical location, and is engaged in one or predominantly one activity. *See https://www.bls.gov/charts/county-employment-and-wages/employment-by-size.htm* for more information on establishments by size. For purposes of the EEO–1 Component 1, the EEOC defines a Single-Establishment filer as an employer conducting business at only one establishment. The EEOC defines a Multi-Establishment filer as an employer conducting business at more than one establishment. Based on the last three EEO–1 Component 1 data collection cycles, approximately 41% of all filers report data for a single establishment, while approximately 59% report data for multiple establishments. Historically, Multi-Establishment filers submit more than 98% of all reports.

[17] A Single-Establishment filer is required to submit only a ''Single-Establishment Filer Report'' (formerly referred to as a ''Type 1'' Report). A Multi-Establishment filer is required to submit a summary ''Consolidated Report'' (formerly referred to as a ''Type 2'' Report), a ''Headquarters Report'' (formerly referred to as a ''Type 3'' Report''), and a separate ''Establishment-Level Report'' for each non-headquarters establishment (formerly referred to as a ''Type 4'' Report for establishments with 50 or more employees and a ''Type 8'' Report for establishments with fewer than 50 employees). The ''Consolidated Report'' is auto-populated and auto-generated for all Multi-Establishment filers within the EEOC's *EEO–1 Component 1 Online Filing System* with data from their ''Headquarters Report'' and ''Establishment-Level Report(s)'' (formerly ''Type 4'' and ''Type 8'' Reports).

certify to complete their EEO–1 Component 1 submission.[18]

Reporting time estimates for EEO–1 Component 1 filers are based on the most recently completed EEO–1 Component 1 collection cycle (*i.e.,* the 2021 EEO–1 Component 1 data collection).[19] At the end of the 2021 EEO–1 Component 1 data collection, there were a total of 91,793 filers and a total of 1,507,372 reports submitted.[20] Based on data trends over the last three EEO–1 Component 1 data collection reporting years (*i.e.,* 2019, 2020, 2021),[21] as well as ongoing updates by the EEOC to the EEO–1 Component 1 frame (*i.e.,* filer roster or master list), the EEOC believes the total number of filers submitting at least one report may increase to 110,000. The EEOC further estimates Single-Establishment filers (formerly referred to as ''Type 1'' filers) will continue to represent approximately 40% of EEO–1 Component 1 filers and will submit less than 2% of all reports, while Multi-Establishment filers (formerly referred to as ''Type 2'' filers) will continue to represent approximately 60% of EEO–1 Component 1 filers and will submit more than 98% of all reports.

As discussed in the 2019 and 2020 60-day Notices,[22] the EEOC created the Office of Enterprise Data and Analytics (OEDA) in May 2018 with the goal of creating a 21st century data and analytics organization at the agency. Since its creation, OEDA, which administers the agency's data collections, including the EEO–1, has undertaken several efforts to modernize the collections and improve the quality of data collected. OEDA has also streamlined functions, such as providing additional self-service options, resource materials, and an online support message center. As part of these ongoing modernization efforts, OEDA identified additional burden-reducing measures to streamline how the current EEO–1 Component 1 workforce demographic data are collected from employers. This request for clearance under the PRA of the EEO–1 Component 1 includes changes that make the EEO–1 filing process more user-friendly and less burdensome.

Beginning with the 2022 EEO–1 Component 1 data collection, Multi-Establishment filers will no longer be required to file a separate ''type'' of establishment report based on the size of an individual non-headquarters establishment (*i.e.,* establishments with 50 or more employees or establishments with fewer than 50 employees). Rather, in place of the ''Type 4'' and ''Type 8'' reports, there will be a newly named ''Establishment-Level Report.''[23] All Multi-Establishment filers will use the Establishment-Level Report to submit establishment-level employee demographic data for each of their non-headquarters establishment(s) regardless of size.[24] With this change, a Multi-Establishment filer will no longer have to take the additional step of counting employees in each establishment to determine whether to file a Type 4 or Type 8 report. Multi-Establishment filers will still be required to submit a ''Headquarters'' Report (formerly referred to as a ''Type 3'' Report) and a ''Consolidated Report'' (formerly referred to as a ''Type 2'' Report). However, all individual ''Consolidated Reports'' for all Multi-Establishment filers will be auto-populated and auto-generated with data from their ''Headquarters Report'' and ''Establishment-Level Report(s)'' within the EEOC's electronic, web-based *EEO–1 Component 1 Online Filing System.*

Based upon the anticipated 110,000 filers submitting EEO–1 Component 1 reports, the EEOC estimates these filers will submit a total of 2,235,938 reports annually, for reporting years 2022, 2023, and 2024.[25] The EEOC estimates 44,257 Single-Establishment filers will submit a single ''Single-Establishment Filer Report,'' and it will take these filers 33,193 hours to do so. The EEOC estimates 65,743 Multi-Establishment filers will submit 2,191,681 reports. By definition, all EEO–1 Component 1 Multi-Establishment filers must submit, at minimum, a ''Consolidated Report'' (formerly ''Type 2''), a ''Headquarters Report'' (formerly ''Type 3''), and at least one ''Establishment-Level Report'' (formerly ''Type 4'' or ''Type 8'').[26] The total number of ''Establishment-Level Reports'' filed by EEO–1 Component 1 Multi-Establishment filers varies greatly among filers, with the plurality of filers filing one establishment report,[27] and a

[18] For this Notice, the EEOC is using the same methodology for calculating burden and considering the same factors as the agency did for the prior EEO–1 Component 1 Information Collection Review (ICR) for reporting years 2019, 2020, and 2021. *See* Notice of Information Collection 84 FR 48138 (Sept. 12, 2019) at *https://www.govinfo.gov/content/pkg/FR-2019-09-12/pdf/2019-19767.pdf* and Notice of Information Collection 85 FR 16348 (Mar. 23, 2020) at *https://www.govinfo.gov/content/pkg/FR-2020-03-23/pdf/2020-06008.pdf.*

[19] The 2021 EEO–1 Component 1 data collection cycle opened on April 12, 2022 and ended on June 21, 2022.

[20] For the 2021 EEO–1 Component 1 data collection, these 1,507,372 reports were made up of the following types of reports: ''Type 1'' (now referred to as a ''Single-Establishment Filer Report''); ''Type 2'' (now referred to as a ''Consolidated Report''); ''Type 3'' (now referred to as a ''Headquarters Report''); and ''Type 4'' and ''Type 8'' (now referred to as ''Establishment-Level Report(s)'').

[21] The 2019 EEO–1 Component 1 data collection was delayed until 2021 due to the Coronavirus Disease 2019 (COVID–19) public health emergency. As a result, the 2019 and 2020 EEO–1 Component 1 data collections were collected concurrently in 2021. *See https://www.federalregister.gov/documents/2020/05/08/2020-09876/delay-in-opening-of-2019-eeo-1-component-1-and-2020-eeo-3-and-2020-eeo-5-data-collections-due-to-the.* Additionally, beginning with the 2019 and 2020 EEO–1 Component 1 data collections, the EEOC onboarded a new contractor, Westat, to administer the agency's EEO data collections, including the EEO–1 Component 1 data collection. In addition to retaining a new contractor, the EEOC launched a new dedicated EEO–1 Component 1 data collection website at *www.eeocdata.org/eeo1* and created a new electronic reporting system, the *EEO–1 Component 1 Online Filing System.*

[22] *See* Notice of Information Collection 84 FR 48138, 48139 (Sept. 12, 2019) at *https://www.govinfo.gov/content/pkg/FR-2019-09-12/pdf/2019-19767.pdf* and Notice of Information Collection 85 FR 16348, 16341 (Mar. 23, 2020) at *https://www.govinfo.gov/content/pkg/FR-2020-03-23/pdf/2020-06008.pdf.*

[23] The Type 4 report contains establishment-level employee demographic data at a non-headquarters establishment with 50 or more employees. The Type 8 report contains establishment-level employee demographic data at a non-headquarters establishment with fewer than 50 employees.

[24] This collection that is the subject of this notice does not include the ''Type 6'' Establishment List Reports by Multi-Establishment filers for the reporting of non-headquarters establishments with fewer than 50 employees. With the discontinuation of the ''Type 6'' Establishment List Report, a ''Consolidated Report'' can be auto-populated and auto-generated with data from a Multi-Establishment filer's ''Headquarters Report'' and ''Establishment-Level Report(s)'' within the EEOC's electronic, web-based *EEO–1 Component 1 Online Filing System* for all Multi-Establishment filers.

[25] This total includes the 65,743 consolidated reports submitted by Multi-Establishment filers that are auto-populated and auto-generated by the *EEO–1 Component 1 Online Filing System.* While these reports contribute to the total report count, they have no associated burden.

[26] Beginning with the 2022 EEO–1 Component 1 data collection, the EEOC is renaming the reports submitted by filers. The naming convention for EEO–1 Component 1 reports will no longer include the word ''Type'' or a specific number corresponding to ''Type.'' The ''Type 1'' Report will be renamed the ''Single-Establishment Filer Report.'' The ''Type 2'' Report will be renamed the ''Consolidated Report.'' The ''Type 3'' Report will be renamed the ''Headquarters Report.'' The ''Type 4'' Report and ''Type 8'' Report will be renamed the ''Establishment-Level Report,'' and as noted above, the ''Type 6'' Establishment List Report is discontinued. Moving forward, Multi-Establishment filers will no longer file a separate ''type'' of report based on the number of employees at a non-headquarters establishment. All multi-establishment filers will simply file an ''Establishment-Level Report'' for each non-headquarters establishment regardless of the number of employees at the establishment.

[27] For the 2021 EEO–1 Component 1 data collection, the modal number of reports submitted by Multi-Establishment filers was three reports: one ''Headquarters Report'' (formerly ''Type 3'' Report), one ''Establishment-Level Report'' (formerly ''Type 4'' Report or ''Type 8'' Report), and one auto-populated and auto-generated ''Consolidated Report'' (formerly ''Type 2'' Report). The median

small number of filers filing many reports (*i.e.,* a small number of Multi-Establishment filers account for a large portion of overall ''Establishment-Level Reports'' submitted).[28]

Table 1 (below) outlines the number of reports, the average reporting time by report type, and the aggregate number of hours estimated to submit these reports. The aggregate reporting time for EEO–1 Component 1 filers by report type varies between a low of 33,193 hours for Single-Establishment filers submitting a ''Single-Establishment Filer Report,'' and a high of 5,150,488 for Multi-Establishment filers submitting ''Establishment-Level Reports.'' When accounting for the aggregate reporting time for EEO–1 Component 1 Multi-Establishment filers to complete a ''Headquarters Report'' (54,786 hours), the total aggregate reporting time for EEO–1 Component 1 filers is 5,238,467 hours.

TABLE 1—PROJECTED ANNUAL BURDEN FOR EEO–1 COMPONENT 1 REPORTING YEARS 2022, 2023, 2024, BY REPORT TYPE AND REPORTING TIME

	Number of reports	Average reporting time (minutes)	Aggregate reporting time (hours)
Single-Establishment Filer Report [a]	44,257	45	33,193
Consolidated Report [b]	65,743	0	0
Headquarters Report [c]	65,743	50	54,786
Establishment-Level Report [d]	2,060,195	150	5,150,488
Total	2,235,938		5,238,467

[a] A ''Single-Establishment Filer Report'' must be submitted by all Single-Establishment filers. A Single-Establishment filer is required to submit only one report. This report must contain demographic data for all the Single-Establishment filer's employees categorized by job category and sex and race or ethnicity. The ''Single-Establishment Filer Report'' was formerly referred to as a ''Type 1'' Report.

[b] A ''Consolidated Report'' is required for all Multi-Establishment filers. A ''Consolidated Report'' must contain demographic data for all the Multi-Establishment filer's employees (*i.e.,* employees at headquarters and all establishments), categorized by job category and sex and race or ethnicity. The ''Consolidated Report'' was formerly referred to as a ''Type 2'' Report. The ''Consolidated Report'' is auto-populated and auto-generated within the EEOC's electronic web-based *EEO–1 Component 1 Online Filing System* for all Multi-Establishment filers with data from their ''Headquarters Report'' (formerly ''Type 3'' Report) and ''Establishment-Level Report(s)'' (formerly ''Type 4'' Report and ''Type 8'' Report). Therefore, there is no associated burden.

[c] A ''Headquarters Report'' must be submitted by all Multi-Establishment filers. The report must contain demographic data for all the Multi-Establishment filer's headquarters employees, categorized by job category and sex and race or ethnicity. The ''Headquarters Report'' was formerly referred to as a ''Type 3'' Report.

[d] An ''Establishment-Level Report'' must be submitted by all Multi-Establishment filers for each non-headquarters establishment. An ''Establishment-Level Report'' must contain establishment-level demographic data for all employees at each of the Multi-Establishment filer's non-headquarters establishments categorized by job category and sex and race or ethnicity. One ''Establishment-Level Report'' must be submitted for each non-headquarters establishment. For example, if a Multi-Establishment filer has 10 non-headquarters establishments, the filer must submit 10 ''Establishment-Level Reports.'' Beginning with the 2022 EEO–1 Component 1 data collection, Multi-Establishment filers will no longer be required to file a separate ''type'' of establishment report based on the size of an individual non-headquarters establishment (*i.e.,* establishments with 50 or more employees or establishments with fewer than 50 employees). Rather, a Multi-Establishment filer will submit an ''Establishment-Level Report'' to report establishment-level employee demographic data for each of its non-headquarters establishment(s) regardless of size.

An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated number of respondents that must file EEO–1 Component 1 data for the next three reporting years (*i.e.,* 2022, 2023, 2024) is 110,000 filers each year. Each filer is required to respond to the EEO–1 Component 1 once annually. The burden estimate is based on data from prior administrations of the EEO–1 Component 1 data collection. The EEOC estimates the 110,000 filers will submit a total of 2,235,938 reports annually. About 40% of EEO–1 Component 1 filers (*i.e.,* 44,257 Single-Establishment filers) will submit one report (*i.e.,* a ''Single-Establishment Filer Report'') on a single establishment. It is estimated these Single-Establishment filers will take an average of 45 minutes per reporting year to complete their EEO–1 Component 1 Report. About 60% of EEO–1 Component 1 filers (*i.e.,* 65,743 Multi-Establishment filers) will report data on multiple establishments. For each reporting year, all Multi-Establishment filers must submit a ''Consolidated Report,'' a ''Headquarters Report,'' and an ''Establishment-Level Report(s)'' for each establishment, resulting in an estimated total of 2,191,681 reports submitted.[29] While the actual submission time for each Single-Establishment and Multi-Establishment filer varies,[30] for purposes of this Notice the EEOC estimates that it will take an average filer under three hours to complete their EEO–1 Component 1 Report. The EEOC estimates a lower burden per filer for the 2022, 2023, and 2024 EEO–1 Component 1 data collections as a result of the following measures to streamline how filers submit their workforce demographic data: (1) discontinuation of the ''Type 6'' Establishment List Report; (2) auto-population and auto-generation of ''Consolidated Reports'' for Multi-Establishment filers within the

number of reports submitted by Multi-Establishment filers was eight reports: one ''Headquarters Report'' (formerly ''Type 3'' Report), six ''Establishment-Level Reports'' (formerly ''Type 4'' Report or ''Type 8'' Report), and one auto-populated and auto-generated ''Consolidated Report'' (formerly ''Type 2'' Report).

[28] For example, in the 2021 EEO–1 Component 1 data collection, there were individual Multi-Establishment filers whose submissions included thousands of reports for their non-headquarters establishments.

[29] This total includes the 65,743 ''Consolidated Reports'' (formerly ''Type 2'' Report) submitted by Multi-Establishment filers, which are auto-populated and auto-generated by the *EEO–1 Component 1 Online Filing System.* While these reports contribute to the total report count, they have no associated burden.

[30] Burden for Single-Establishment filers is based on a single report. Burden for Multi-Establishment filers is cumulative and is based on the report type combination. EEO–1 Component 1 project staff estimate the average completion time for the ''Consolidated Report'' would be 0 minutes since this report is auto-populated and auto-generated within the EEOC's electronic web-based *EEO–1 Component 1 Online Filing System* for all Multi-Establishment filers with data from their ''Headquarters Report'' and ''Establishment-Level Report(s).'' The completion of the ''Headquarters Report'' adds an average of 50 minutes to the burden, and the completion of ''Establishment-Level Report(s)'' adds an average of 2.5 hours to burden. Therefore, a Multi-Establishment filer will have an average burden of 3.3 hours (0 hours for the ''Consolidated Report'', plus 50 minutes for the ''Headquarters Report'', plus 2.5 hours for the ''Establishment-Level Report(s)'').

EEO–1 Component 1 Online Filing System (OFS); and (3) implementation of a single ''Establishment-Level Report'' for each non-headquarters establishment regardless of size.

An estimate of the total public burden (in hours) associated with the collection: Because it will take an average filer approximately three hours to complete its EEO–1 Component 1 Report, the collection of EEO–1 Component 1 data for reporting years 2022, 2023, and 2024 is estimated to impose 5,238,467 annual burden hours for 2,235,938 EEO–1 Component 1 Reports filed each reporting year.

For the Commission.

Charlotte A. Burrows,

Chair.

[FR Doc. 2022–24518 Filed 11–9–22; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1008; FR ID 113345]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments shall be submitted on or before January 9, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1008.

Title: Section 27.50, Power and Antenna Height Limits; Section 27.602, Guard Band Manager Agreements.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, and State, Local or Tribal Government.

Number of Respondents and Responses: 120 respondents and 202 responses.

Estimated Time per Response: 1 hour up to 6 hours.

Frequency of Response: Recordkeeping requirement, On occasion reporting requirement and Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j), as amended.

Total Annual Burden: 752 hours.

Annual Cost Burden: No cost.

Needs and Uses: The information gathered in this collection will be used to support the development of new services in the Lower 700 MHz Band. Further, Guard Band Managers are required to enter into written agreements with other licensees who plan on using their licensed spectrum by others, subject to certain conditions outlined in the rules. They must retain these records for at least two years after the date such agreement expire. Such records need to be kept current and be made available upon request for inspection by the Commission or its representatives.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24596 Filed 11–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0928, OMB 3060–0795, OMB 3060–0881 and OMB 3060–0627; FR ID 113339]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments shall be submitted on or before January 9, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0928.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule F (Formerly FCC 302–CA); 47 CFR 73.6028; Section 73.3700(b)(3); Section 73.3700(h)(2) and Section 73.3572(h).

Form No.: FCC Form 2100, Schedule F.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 115 respondents and 115 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Total Annual Burden: 230 hours.

Annual Cost Burden: $69,225.

Needs and Uses: The FCC Form 2100, Schedule F is used by Low Power TV (LPTV) stations that seek to convert to Class A status; existing Class A stations seeking a license to cover their authorized construction permit facilities; and Class A stations entering into a channel sharing agreement. The FCC Form 2100, Schedule F requires a series of certifications by the Class A applicant as prescribed by the Community Broadcasters Protection Act of 1999 (CBPA). Licensees will be required to provide weekly announcements to their listeners: (1) Informing them that the applicant has applied for a Class A license and (2) announcing the public's opportunity to comment on the application prior to Commission action.

Information Collection Requirements

Section 73.6028 permits Class A stations to seek approval to share a single television channel with LPTV, TV translator, full power and Class A television stations. Class A stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule F in order to complete the licensing of their channel sharing arrangement.

Section 73.3700(b)(3) requires the licensee of each channel sharee station and channel sharer station to file an application for a license for the shared channel using FCC Form 2100 Schedule B (for a full power station) or F (for a Class A station) within six months of the date that the channel sharee station licensee receives its incentive payment pursuant to section 6403(a)(1) of the Spectrum Act.

Section 73.3700(h)(2) states that, upon termination of the license of a party to a channel sharing assignees (CSA), the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with 47 CFR 73.3700(h)(4)(E). If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application to change its license to non-shared status using FCC Form 2100, Schedule B (for a full power licensee) or F (for a Class A licensee).

Section 73.3572(h)—Class A TV station licensees shall file a license application for either the flash cut channel or the digital companion channel they choose to retain for post-transition digital operations. Class A TV stations will retain primary, protected regulatory status on their desired post-transition digital channel. Class A TV applicants must certify that their proposed post-transition digital facilities meet all Class A TV interference protection requirements.

OMB Control No.: 3060–0795.

Title: Associate WTB & PSHSB Call Sign & Antenna Registration Number With Licensee's FRN.

Form No.: FCC Form 606.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit entities; not-for-profit institutions; state, local or tribal government.

Number of Respondents: 5,000 respondents; 5,000 responses.

Estimated Time per Response: (15 minutes) 0.25 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,250 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality. On a case-by-case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The Commission will submit this information collection to the OMB after this 60-day comment period as an extension (no change in reporting and/or third-party disclosure requirements) to obtain the full three-year clearance from them.

Licensees use FCC Form 606 to associate their FCC Registration Number (FRN) with their Wireless Telecommunications Bureau and Public Safety Homeland Security Bureau call signs and antenna structure registration numbers. The form must be submitted before filing any subsequent applications associated with the existing license or antenna structure registration that is not associated with an FRN. The information collected in the FCC Form 606 is used to populate the Universal Licensing System (ULS) with the FRNs of licensees and antenna structure registration owners who interact with ULS.

OMB Control No.: 3060–0881.

Title: Section 95.1961, Interference.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 30 respondents; 30 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement, and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i) and 157, as amended.

Total Annual Burden: 30 hours.

Annual Cost Burden: $7.500.

Needs and Uses: On May 19, 2017, the Commission reformed its Part 95 rules. See Review of the Commission's Part 95 Personal Radio Service Rules, Report and Order, WT Docket 10–119, 32 FCC Rcd 4292 (2017). In that proceeding, the Commission renumbered certain Part 95 rules subject to this information collection without making substantive rule changes. For example, former rule § 95.861 is currently § 95.1961. With this submission to the Office of Management and Budget (OMB), we renumbered the rule sections accordingly.

Section 95.1961(c) requires that licensees in the 218–219 MHz service must provide a copy of its plan to every TV Channel 13 station whose Grade B predicted contour overlaps the licensed service area as required by § 95.1915(a) of the Commission's rules. This plan must include an analysis of the co- and adjacent channel interference potential of proposed systems in the 218–219 MHz service, identify methods being used to minimize interference, and show how the proposed systems will meet the service requirements set forth in § 95.1931 of the Commission's rules. This plan must be sent to the TV Channel 13 licensee(s) within 10 days from the date the 218–219 MHz service

licensee submits the plan to the Commission. Updates to this plan must be sent to the TV Channel 13 licensee(s) within 10 days from the date that such updates are filed with the Commission pursuant to § 95.1915.

Section 95.1961(e) requires that each 218–219 MHz service licensee investigate and eliminate harmful interference to television broadcasting and reception, from its component cell transmitter stations (CTSs) and response transmitter units (RTUs) within 30 days of the time it is notified in writing, by either an affected television station, an affected viewer, or the Commission, of an interference complaint.

OMB Control Number: 3060–0627.

Title: FCC Form 302–AM, Application for AM Broadcast Station License.

Form Number: FCC Form 302–AM.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not for profit institutions.

Number of Respondents and Responses: 380 respondents and 380 responses.

Estimated Time per Response: 4–20 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2,800 hours.

Total Annual Cost: $5,684,350.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Needs and Uses: Licenses and permittees of AM broadcast stations are required to file FCC Form 302–AM to obtain a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations. Additionally, when changes are made to an AM station that alter the resistance of the antenna system, a licensee must initiate a determination of the operating power by the direct method. The results of this are reported to the Commission using the FCC 302–AM.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24600 Filed 11–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0311; FR ID 113344]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments shall be submitted on or before January 9, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0311.

Title: 47 CFR 76.54, Significantly Viewed Signals; Method to be followed for Special Showings.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 500 respondents, 1,274 responses.

Frequency of Response: On occasion reporting and third-party disclosure requirements.

Estimated Time per Response: 1–15 hours (average).

Total Annual Burden: 20,610 hours.

Total Annual Cost: $300,000.

Nature of Response: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 4(i) and 340 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 76.54(b) state significant viewing in a cable television or satellite community for signals not shown as significantly viewed under 47 CFR 76.54(a) or (d) may be demonstrated by an independent professional audience survey of over-the-air television homes that covers at least two weekly periods separated by at least thirty days but no more than one of which shall be a week between the months of April and September. If two surveys are taken, they shall include samples sufficient to assure that the combined surveys result in an average figure at least one standard error above the required viewing level.

The information collection requirements contained in 47 CFR 76.54(c) are used to notify interested parties, including licensees or permittees of television broadcast stations, about audience surveys that are being conducted by an organization to demonstrate that a particular broadcast station is eligible for significantly viewed status under the Commission's rules. The notifications provide interested parties with an opportunity to review survey methodologies and file objections.

Lastly, 47 CFR 76.54(e) and (f), are used to notify television broadcast stations about the retransmission of significantly viewed signals by a satellite carrier into these stations' local market.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–24601 Filed 11–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

[File No. P222100]

HISA Assessment Methodology Rule Modification

AGENCY: Federal Trade Commission.

ACTION: Notice of Horseracing Integrity and Safety Authority (HISA) proposed rule modification; request for public comment.

SUMMARY: The Horseracing Integrity and Safety Act of 2020 recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority, which is charged with developing proposed rules on a variety of subjects. Those proposed rules and proposed rule modifications take effect only if approved by the Federal Trade Commission. The proposed rules and rule modifications must be published in the **Federal Register** for public comment. Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification. The Authority submitted to the Commission a proposed rule modification on Assessment Methodology on October 20, 2022. The Office of the Secretary of the Commission determined that the proposal complied with the Commission's rule governing such submissions. This document publicizes the Authority's proposed rule modification's text and explanation, and it seeks public comment on whether the Commission should approve or disapprove the proposed rule modification.

DATES: If approved, the HISA proposed rule modification would take effect upon approval, and the Commission must approve or disapprove the proposed rule modification January 9, 2023. Comments must be received on or before November 25, 2022.

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 ''HISA Assessment Methodology Rule Modification'' on your comment and file your comment online at *https://www.regulations.gov* under docket number FTC–2022–0068. 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 (202–326–3166), Associate General Counsel for Rulemaking, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

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Background

The Horseracing Integrity and Safety Act of 2020 [1] recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority, which is charged with developing proposed rules on a variety of subjects. Those proposed rules and proposed rule modifications take effect only if approved by the Federal Trade Commission.[2] The proposed rules and rule modifications must be published in the **Federal Register** for public comment.[3] Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification.[4]

Pursuant to Section 3053(a) of the Horseracing Integrity and Safety Act of 2020 and Commission Rule 1.142, notice is hereby given that, on October 20, 2022, the Horseracing Integrity and Safety Authority (''HISA'' or the ''Authority'') filed with the Federal Trade Commission an Enforcement proposed rule modification and supporting documentation as described in Items I, II, III, and IX below, which Items have been prepared by the Authority. The Office of the Secretary of the Commission determined that the filing complied with the Commission's rule governing such submissions.[5] The Commission publishes this notice to solicit comments on the proposed rule modification from interested persons.

I. Self-Regulatory Organization's Statement of the Background, Purpose of, and Statutory Basis for, the Proposed Rule Modification

a. Background and Purpose

The Horseracing Integrity and Safety Act of 2020 (''Act'') recognizes that the establishment of a national set of uniform standards for racetrack safety and medication control will enhance the safety and integrity of horseracing. The Assessment Methodology rule is established in the Rule 8500 Series, the ''Assessment Methodology Rule'' filed by the Authority with the Commission earlier this year. The Rule 8500 Series was published in the **Federal Register** on February 18, 2022,[6] and subsequently approved by the Commission by Order dated April 1, 2022.[7]

The Authority proposes to modify the Rule 8500 Series and to supplement it with additional provisions. The proposed rule modifications are described in detail in Item II of this Notice. The modifications are intended to address suggested changes and potential problems in interpreting and implementing the rule by amending dates specified in the rule, providing a True-Up Calculation based on actual rather than projected starts and purse starts, providing alternative calculation methods should a court enjoin the enforcement of Rule 8500 based on the use of Projected Purse Starts, and addressing the scenario of a State racing commission's electing to remit fees after the initial election date to remit fees.

The proposed modifications are consistent with the requirements of the Act in that they further the purpose of properly and equitably allocating the costs of the Authority's operations to the States or Covered Persons involved with Covered Horseraces, as mandated by 15 U.S.C. 3052(f). The cost allocations ensure that the Authority is adequately funded and able to implement the provisions of the Act. Successful implementation of the Act affects Covered Persons, Covered Horses, and

[1] 15 U.S.C. 3051 through 3060.

[2] 15 U.S.C. 3053(b)(2).

[3] 15 U.S.C. 3053(b)(1).

[4] 15 U.S.C. 3053(c)(1).

[5] 16 CFR 1.140 through 1.144; *see also* Fed. Trade Comm'n, Procedures for Submission of Rules Under the Horseracing Integrity and Safety Act, 86 FR 54819 (Oct. 5, 2021), *https://www.federalregister.gov/documents/2021/10/05/2021-21306/procedures-for-submission-of-rules-under-the-horseracing-integrity-and-safety-act.*

[6] *See* Fed. Trade Comm'n, Notice of HISA Assessment Methodology Proposed Rule (''Notice''), 87 FR 9349 (Feb. 18, 2022), *https://www.federalregister.gov/documents/2022/02/18/2022-03717/hisa-assessment-methodology-rule.*

[7] *See* Fed. Trade Comm'n, Order Approving the Assessment Methodology Rule Proposed by the Horseracing Integrity & Safety Auth. (Apr. 1, 2022), *https://www.ftc.gov/system/files/ftc_gov/pdf/Order%20re%20HISA%20Assessment%20Methodology.pdf.*

Covered Horseraces by ensuring that the horseracing anti-doping and medication control program and the racetrack safety program operate to enhance the safety and integrity of horseracing and all its human and equine participants.

The Act requires that the Authority provide to each State racing commission an estimated amount required from the State to ''(i) to fund the State's proportionate share of the horseracing anti-doping and medication control program and the racetrack safety program for the next calendar year; and (ii) to liquidate the State's proportionate share of any loan or funding shortfall in the current calendar year and any previous calendar year.'' [8] A state's proportionate share is to be based on the annual budget of the Authority, ''the projected amount of covered racing starts for the year in each State'' and shall ''take into account other sources of Authority revenue.'' [9]

If a State racing commission does elect to remit fees pursuant to 15 U.S.C. 3052(f)(2), then the Authority is required to ''not less frequently than monthly, calculate the applicable fee per racing start multiplied by the number of racing starts in the State during the preceding month.'' [10] This calculation is required to be allocated equitably ''among covered persons involved with covered horseraces pursuant to such rules as the Authority may promulgate'' and collected ''according to such rules as the Authority may promulgate.'' [11]

With the review, input and ultimate approval of the Authority's Board of Directors, the proposed rule modification to the Rule 8500 Series enhances the procedures for the Assessment Methodology Rule promulgated by the Authority.

b. Statutory Basis

The Horseracing Integrity and Safety Act of 2020, 15 U.S.C. 3051 through 3060.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Enforcement Proposed Rule Modification and Discussion of Alternatives

Rule 8520(a), as originally filed with the Commission, did not address the scenario of a State racing commission's electing to remit fees after the initial election date to remit fees. The Authority now proposes to add the following language to Rule 8520(a): ''If a State racing commission elects to remit fees pursuant to 15 U.S.C. 3052(f)(2) for any subsequent calendar year, the State racing commission shall notify the Authority in writing on or before 30 days from the receipt of the estimated amount provided to the State racing commission pursuant to Rule 8520(b). A State racing commission may be permitted to pay a portion of the estimated amount provided to the State racing commission pursuant to Rule 8520(b). In such case, the remaining portion of the estimated amount provided to the State racing commission pursuant to Rule 8520(b) shall be paid pursuant to Rule 8520(e).'' With this revision, Rule 8520(a) allows a State racing commission to elect to remit fees pursuant to 15 U.S.C. 3052(f)(2) for any year that it elects to do so. In addition, the revision permits a State racing commission to pay a portion of the estimated amount provided to the State racing commission pursuant to Rule 8520(b). These modifications afford State racing commissions broader flexibility in their payment options.

As noted below, several commentators suggested that the dates set forth in the proposed modification were confusing. These comments were accepted by the Authority, and a change is proposed to Rule 8520(b) and Rule 8520(e)(4). Rule 8520(b) would now state: ''Not later than November 1, 2022, and not later than November 1 of each year thereafter . . . .'' Rule 8520(e)(4) would now state: ''Not later than December 10, 2022, and not later than December 10 each year thereafter . . . .'' These changes provide greater clarity to the deadlines set forth in Assessment Methodology. New language was also added in Rule 8520(e) to account for partial payments under Rule 8520(a). These changes make clear that the payments made under Rule 8520(e) shall take into account any partial payments made by State racing commissions.

Rule 8520(f) is a new subsection. The Act and the Assessment Methodology rule necessarily base the annual assessments on Projected Starts and Projected Purse Starts. This new subsection requires the Authority to ''true-up'' the projected start and purse start amounts with the actual numbers for these amounts. Rule 8520(f) requires the Authority to calculate the actual number of starts in covered horseraces for the previous calendar year and the actual total amount of purses for covered horseraces for the previous calendar year and apply such amounts to the calculations set forth in Rule 8520(c), instead of the projected amounts utilized in the calculation of the estimated amount provided to the State racing commission pursuant to Rule 8520(b) for the relevant calendar year (the ''True-Up Calculation''). The current year allocations are then equitably adjusted to account for any differences between the estimated amount provided to the state racing Commission pursuant to Rule 8520(b) for the previous year and the True-Up Calculation. The remainder of Rule 8520(f) addresses a comment posted on *https://www.regulations.gov* during the notice-and-comment period for the Assessment Methodology rule. This new provision allows State racing commissions, horsemen's organizations, and Racetracks to object to the Equibase numbers. The Authority has been in discussion with industry stakeholders since April of this year concerning the True-Up Calculation, and the calculation is consistent with the goals and purposes of the Act. It is self-evident that the assessments should ultimately be based on actual numbers instead of projected numbers.

Rule 8520(g) is a new subsection. Certain states and stakeholders have objected to the use of Projected Purse Starts in Assessment Methodology. If an injunction enjoins the enforcement of the Rule 8500 Series based on the use of Projected Purse Starts in Assessment Methodology, Rule 8520(g) requires the applicable States, Racetrack,s and Covered Persons, as the case may be, to pay the allocation due from each State pursuant to 15 U.S.C. 3052(f)(1)(C) and 15 U.S.C. 3052(f)(3)(A)–(C) proportionally by the applicable State's respective percentage of Projected Starts. Rule 8520(g) operates as a savings clause and ensures that Assessment Methodology will continue to operate during any court challenges.

All the changes proposed in the Assessment Methodology proposed rule modification are intended to enhance the Rule 8500 Series in a manner that is consistent with the Act. The modifications have been crafted to address specific issues in the most precise manner possible, and no reasonable alternatives presented themselves for consideration. The proposed rules are carefully tailored to the unique character of horseracing and to the organizational structure of the Authority.

III. Self-Regulatory Organization's Summary of Comments Received Pre-Submission and Its Responses to Those Comments

As encouraged by the Commission's procedural rule, the Authority, before finalizing this submission to the Commission, made a draft of the

[8] 15 U.S.C. 3052(f)(1)(C)(i).

[9] *Id.* 3052(f)(1)(C)(ii).

[10] *Id.* 3052(f)(3)(A).

[11] *Id.* 3052(f)(3)(B).

Assessment Methodology proposed rule modification available to the public for review and comment on the HISA website, *https://www.hisausregs.org/.* On September 19, 2022, and September 24, 2022, Authority representatives shared a draft of the proposed rule modification with interested stakeholders for input. Those interested stakeholders included: Racing Officials Accreditation Program; Racing Medication and Testing Consortium (Scientific Advisory Committee); Water Hay Oats Alliance; National Thoroughbred Racing Association; The Jockey Club; The Jockeys' Guild; Thoroughbred Racing Association; Arapahoe Park; Colonial Downs; Thoroughbred Owners of California; California Horse Racing Board; National Horsemen's Benevolent and Protective Association; Thoroughbred Owners and Breeders Association; Kentucky Thoroughbred Association; American Association of Equine Practitioners; American Veterinary Medical Association; Stronach Racing Group (5 thoroughbred racetracks); Churchill Downs (6 thoroughbred racetracks); Keeneland; and Del Mar. On September 19, 2022, the rule modification proposal was made available to the public for review and comment on the HISA website at *https://www.hisaus.org/.* Available on the docket at *https://www.regulations.gov* is Exhibit A, which includes copies of all comments received concerning the rule modification proposal.

Comments on the Assessment Methodology proposed rule modification were received from seven groups in the horseracing industry: Racing Officials Accreditation Program, the American Association of Equine Practitioners, the Washington Horse Racing Commission, Oregon Racing Commission, Oklahoma Horse Racing Commission, American Veterinary Medical Association, and the National HBPA, Inc. The first four of these commenters had no specific suggested changes to the proposed modifications. The Oklahoma Commission and American Veterinary Medical Association both suggested that the retention in the rule of dates that had already occurred was confusing. As noted above, these suggestions were adopted. The remaining commenter, National HBPA, addressed a portion of Rule 8520(e) that had not been proposed to be modified. This commenter also requested that horsemen's organizations be permitted to object to the Equibase numbers. As noted above, this suggestion was adopted. And finally, this commenter suggested that Rule 8520(g) should be revised to establish a process to allocate an underpayment or overpayment. The Authority declined to make this change. No process is necessary. As set forth in the rule, if an injunction is reversed by a court of competent jurisdiction, the Authority shall adjust the allocation due in the current calendar year to account for the overpayment or underpayment created using the Alternative Calculation made during the time that the injunction was in force. This adjustment is simply a mathematical calculation.

IV. Legal Authority

This rule modification is proposed by the Authority for approval or disapproval by the Commission under 15 U.S.C. 3053(c)(1).

V. Effective Date

If approved by the Commission, this proposed rule modification will take effect immediately.

VI. Request for Comments

Members of the public are invited to comment on the Authority's proposed rule modification. The Commission requests that factual data on which the comments are based be submitted with the comments. The supporting documentation referred to in the Authority's filing, as well as the written comments it received before submitting the proposed rule modification to the Commission, are available for public inspection at *https://www.regulations.gov* under docket number FTC–2022–0068.

The Commission seeks comments that address the decisional criteria provided by the Act. The Act gives the Commission two criteria against which to measure proposed rules and rule modifications: ''The Commission shall approve a proposed rule or modification if the Commission finds that the proposed rule or modification is consistent with—(A) this chapter; and (B) applicable rules approved by the Commission.'' [12] In other words, the Commission will evaluate the proposed rule modification for its consistency with the specific requirements, factors, standards, or considerations in the text of the Act as well as the Commission's procedural rule.

Although the Commission must approve the proposed rule modification if the Commission finds that the proposed rule modification is consistent with the Act and the Commission's procedural rule, the Commission may consider broader questions about the health and safety of horses or the integrity of horseraces and wagering on horseraces in another context: ''The Commission may adopt an interim final rule, to take effect immediately, . . . if the Commission finds that such a rule is necessary to protect—(1) the health and safety of covered horses; or (2) the integrity of covered horseraces and wagering on those horseraces.'' [13] The Commission may exercise its power to issue an interim final rule on its own initiative or in response to a petition from a member from the public. If members of the public wish to provide comments to the Commission that bear on protecting the health and safety of horses or the integrity of horseraces and wagering on horseraces but do not discuss whether the Authority's Enforcement proposed rule modification is consistent with the Act or the applicable rules, they should not submit a comment here. Instead, they are encouraged to submit a petition requesting that the Commission issue an interim final rule addressing the subject of interest. The petition must meet all the criteria established in the Rules of Practice (Part 1, Subpart D); [14] if it does, the petition will be published in the **Federal Register** for public comment. In particular, the petition for an interim final rule must ''identify the problem the requested action is intended to address and explain why the requested action is necessary to address the problem.'' [15] As relevant here, the petition should provide sufficient information for the public to comment on, and for the Commission to find, that the requested interim final rule is ''necessary to protect—(1) the health and safety of covered horses; or (2) the integrity of covered horseraces and wagering on those horseraces.'' [16]

VII. 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 November 25, 2022. Write ''HISA Assessment Methodology Rule Modification'' 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 public health considerations and the Commission's heightened security screening, postal mail addressed to the Commission will be subject to delay. The Commission

[12] 15 U.S.C. 3053(c)(2).

[13] 15 U.S.C. 3053(e).

[14] 16 CFR 1.31; *see* Fed. Trade Comm'n, Procedures for Responding to Petitions for Rulemaking, 86 FR 59851 (Oct. 29, 2021).

[15] 16 CFR 1.31(b)(3).

[16] 15 U.S.C. 3053(e).

strongly encourages that comments be submitted online through the *https://www.regulations.gov* website. To ensure that the Commission considers online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''HISA Assessment Methodology Rule Modification'' 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 that 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), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *https://www.regulations.gov*—as legally required by FTC Rule § 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws that 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 November 25, 2022. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/siteinformation/privacypolicy.*

VIII. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

IX. Self-Regulatory Organization's Proposed Rule Language

The following language reflects the Assessment Methodology rule with the proposed modifications incorporated. A redline version that shows every way in which the previously approved Assessment Methodology rule would be modified by the proposed rule modification is available as Exhibit B on the docket at *https://www.regulations.gov.*

8500. Methodology for Determining Assessments

8510. Definitions

For purposes of this Rule 8500 Series:

(a) *Annual Covered Racing Starts* means, for the following calendar year, the sum of: (i) 50 percent of the number of Projected Starts; plus (ii) 50 percent of the number of Projected Purse Starts.

(b) *Covered Horseraces* has the meaning set forth in 15 U.S.C. 3051(5).

(c) *Covered Persons* has the meaning set forth in 15 U.S.C. 3051(6).

(d) *Projected Starts* means the number of starts in Covered Horseraces in the previous 12 months as reported by Equibase, after taking into consideration alterations in the racing calendar of the relevant State(s) for the following calendar year.

(e) *Projected Purse Starts* means: (i) the total amount of purses for Covered Horseraces as reported by Equibase (not including the Breeders' Cup World Championships Races), after taking into consideration alterations in purses for the relevant State(s) for the following calendar year; divided by (ii) the Projected Starts for the following calendar year.

(f) *Racetrack* has the meaning set forth in 15 U.S.C. 3051(15).

8520. Annual Calculation of Amounts Required

(a) If a State racing commission elects to remit fees pursuant to 15 U.S.C. 3052(f)(2), the State Racing Commission shall notify the Authority in writing on or before May 2, 2022 of its decision to elect to remit fees. If a State racing commission elects to remit fees pursuant to 15 U.S.C. 3052(f)(2) for any subsequent calendar year, the State racing commission shall notify the Authority in writing on or before 30 days from the receipt of the estimated amount provided to the State racing commission pursuant to Rule 8520(b). A State racing commission may be permitted to pay a portion of the estimated amount provided to the State racing commission pursuant to Rule 8520(b). In such case, the remaining portion of the estimated amount provided to the State racing commission pursuant to Rule 8520(b) shall be paid pursuant to Rule 8520(e).

(b) Not later than November 1, 2022, and not later than November 1 of each year thereafter, the Authority shall determine and provide to each State Racing Commission the estimated amount required from each State pursuant to the calculation set forth in Rule 8520(c) below.

(c) Upon the approval of the budget for the following calendar year by the Board of the Authority, and after taking into account other sources of Authority revenue, the Authority shall allocate the calculation due from each State pursuant to 15 U.S.C. 3052(f)(1)(C)(i) proportionally by each State's respective percentage of the Annual Covered Racing Starts. The proportional calculation for each State's respective percentage of the Annual Covered Racing Starts shall be calculated as follows:

(1) the total amount due from all States pursuant to 15 U.S.C. 3052(f)(1)(C)(i) shall be divided by the Projected Starts of all Covered Horseraces; then

(2) 50 percent of the quotient calculated in (c)(1) is multiplied by the quotient of

(i) the relevant State's percentage of the total amount of purses for all covered horseraces as reported by Equibase (not including the Breeders' Cup World Championships Races), after taking into consideration alterations in

purses for the relevant State for the following calendar year; divided by

(ii) the relevant State's percentage of the Projected Starts of all covered horseraces starts; then

(3) the sum of (i) the product of the calculation in (c)(2) and 50 percent of the quotient calculated in (c)(1) is multiplied by the Projected Starts in the applicable State. Provided however, that no State's allocation shall exceed 10 percent of the total amount of purses for covered horseraces as reported by Equibase in the State (not including the Breeders' Cup World Championships Races). All amounts in excess of the 10 percent maximum shall be allocated proportionally to all States that do not exceed the maximum, based on each State's respective percentage of the Annual Covered Racing Starts. (d) Pursuant to 15 U.S.C. 3052(f)(2)(B), a State racing commission that elects to remit fees shall remit fees on a monthly basis and each payment shall equal one-twelfth of the estimated annual amount required from the State for the following year. (e) If a State racing commission does not elect to remit fees pursuant to 15 U.S.C. 3052(f)(2) or has remitted a partial payment under Rule 8520(a):

(1) The Authority shall on a monthly basis calculate and notify each Racetrack in the State of the applicable fee per racing start for the next month based upon the following calculations:

(i) Calculate the amount due from the State as if the State had elected to remit fees pursuant to 15 U.S.C. 3052(f)(2) (after taking into account any partial payment under Rule 8520(a)) (the ''Annual Calculation'').

(ii) Calculate the number of starts in covered horseraces in the previous twelve months as reported by Equibase (the ''Total Starts'').

(iii) Calculate the number of starts in covered horseraces in the previous month as reported by Equibase (the ''Monthly Starts'').

(iv) The applicable fee per racing start shall equal (i) the quotient of Monthly Starts divided by Total Starts; (ii) multiplied by the Annual Calculation.

(2) The Authority shall on a monthly basis calculate and notify each Racetrack in the jurisdiction of the following calculations:

(i) Multiply the number of starts in Covered Horseraces in the previous month by the applicable fee per racing start calculated pursuant to paragraph (e)(1)(iv) above.

(ii) The calculation set forth in 15 U.S.C. 3052(f)(3)(A) shall be equal to the amount calculated pursuant to paragraph (e)(2)(i) (the ''Assessment Calculation'').

(3) The Authority shall allocate the monthly Assessment Calculation proportionally based on each Racetrack's proportionate share in the total purses in covered horseraces in the State over the next month and shall notify each Racetrack in the jurisdiction of the amount required from the Racetrack. Each Racetrack shall pay its share of the Assessment Calculation to the Authority within 30 days of the end of the monthly period.

(4) Not later than December 10, 2022, and not later than December 10 each year thereafter, each Racetrack in the State shall submit to the Authority its proposal for the allocation of the Assessment Calculation among covered persons involved with covered horseraces (the ''Covered Persons Allocation''). On or before 30 days from the receipt of the Covered Persons Allocation from the Racetrack, the Authority shall determine whether the Covered Persons Allocation has been allocated equitably in accordance with 15 U.S.C. 3052(f)(3)(B) and if so, the Authority shall notify the Racetrack that the Covered Persons Allocation is approved. If a Racetrack fails to submit its proposed Covered Person Allocation in accordance with the deadlines set forth in this paragraph, or if the Authority has not approved the Covered Persons Allocation in accordance with this paragraph, the Authority shall determine the Covered Persons Allocation for the Racetrack. Upon the approval of or the determination by the Authority of the Covered Persons Allocation, the Racetrack shall collect the Covered Person Allocation from the covered persons involved with covered horseraces.

(f) Not later than March 1 of each year, the Authority shall calculate the actual number of starts in Covered Horseraces as reported by Equibase for the previous calendar year and the actual total amount of purses for Covered Horseraces as reported by Equibase for the previous calendar year and apply such amounts to the calculations set forth in Rule 8520(c) instead of the projected amounts utilized in the calculation of the estimated amount provided to the State racing commission pursuant to Rule 8520(b) for the relevant calendar year (the ''True-Up Calculation''). The allocation due from each State in the current year shall be equitably adjusted to account for any differences between the estimated amount provided to the State racing commission pursuant to Rule 8520(b) for the previous year and the True-Up Calculation. Any State racing commission, horsemen's organization, or Racetrack that believes that Equibase has not accurately reported the correct number of starts in covered horseraces for the previous calendar year or the total amount of purses for covered horseraces for the previous calendar year shall notify the Authority by January 31 of each year of the basis for objecting to the relevant Equibase numbers for the applicable State or Racetrack. The Authority shall review the information submitted and shall determine the actual number of starts in Covered Horseraces for the previous calendar year and the actual total amount of purses for Covered Horseraces for the previous calendar year.

(g) In the event that any court of competent jurisdiction issues an injunction that enjoins the enforcement of the Rule 8500 Series based on the use of Projected Purse Starts in the Assessment Methodology Rule, the applicable States, Racetracks, and Covered Persons, as the case may be, shall pay the allocation due from each State pursuant to 15 U.S.C. 3052(f)(1)(C) and 15 U.S.C. 3052(f)(3)(A)–(C) proportionally by the applicable State's respective percentage of Projected Starts (the ''Alternative Calculation''). If such injunction is reversed by a court of competent jurisdiction and such reversal is final and non-appealable, the Authority shall adjust the allocation due from the applicable States, Racetracks, and Covered Persons, as the case may be, in the current calendar year to account for the overpayment or underpayment created by the use of the Alternative Calculation made during the time that the injunction was in force.

(h) All notices required to be given to the Authority pursuant to the Act and these regulations shall be in writing and shall be mailed to 401 West Main Street, Suite 222, Lexington, Kentucky 40507 and emailed to *jim.gates@hisaus.org.*

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2022–24609 Filed 11–9–22; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10821]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by December 12, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title:* Supplemental to Form CMS–2552–10; Payment Adjustment for Domestic NIOSH-Approved Surgical N95 respirators; *Use:* This supplemental form supports the policy goal of ensuring that quality PPE is available to health care personnel when needed by maintaining production levels of wholly domestically-made PPE, a policy goal emphasized in the National Strategy for a Resilient Public Health Supply Chain, published in July 2021 as a deliverable of President Biden's Executive Order 14001 on ''A Sustainable Public Health Supply Chain.'' The supplemental form calculates a payment adjustment for an 1886(d) hospital and/or a hospital paid for outpatient services under the hospital outpatient prospective payment system (OPPS) purchasing domestic NIOSH-approved surgical N95 respirators (domestic respirators) effective for cost reporting periods beginning on or after January 1, 2023. A hospital eligible for the payment adjustment must complete this supplemental form and submit the form with its Medicare cost report that covers the same cost reporting period.

This information collection request is associated with the final rule CMS–1772–FC (RIN: 0938–AU82) that displayed at the **Federal Register** on November 3, 2022, and is scheduled for publication on November 23, 2022. *Form Number:* CMS–10821 (OMB Control Number: 0938–TBD); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profit and not-for-profit institutions); *Number of Respondents:* 4,662; *Number of Responses:* 4,662; *Total Annual Hours:* 2,331. (For policy questions regarding this collection contact Gail Duncan at 410–786–7278.)

Dated: November 7, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–24612 Filed 11–9–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Charter Renewal of the Advisory Committee on Blood and Tissue Safety and Availability

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services is hereby giving notice that the charter for the Advisory Committee on Blood and Tissue Safety and Availability (ACBTSA) has been renewed.

FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Rockville, MD 20852. Phone: (202) 795–7608. Email: *ACBTSA@hhs.gov.*

SUPPLEMENTARY INFORMATION: The ACBTSA is a non-discretionary federal advisory committee. The ACBTSA is authorized under 42 U.S.C. 217a, Section 222 of the Public Health Service (PHS) Act, as amended. The Committee is governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App), which sets forth standards for the formation and use of advisory committees. The ACBTSA advises, assists, consults with, and makes policy recommendations to the Secretary, through the Assistant Secretary for Health, regarding broad responsibilities related to the safety of blood, blood products, tissues, and organs. For solid organs and blood stem cells, the Committee's work is limited to policy issues related to donor derived

infectious disease complications of transplantation.

To carry out its mission, the ACBTSA provides advice to the Secretary through the Assistant Secretary for Health on a range of policy issues which includes: (1) identification of public health issues through surveillance of blood and tissue safety issues with national biovigilance data tools; (2) identification of public health issues that affect availability of blood, blood products, and tissues; (3) broad public health, ethical, and legal issues related to the safety of blood, blood products, and tissues; (4) the impact of various economic factors (*e.g.,* product cost and supply) on safety and availability of blood, blood products, and tissues; (5) risk communications related to blood transfusion and tissue transplantation; and (6) identification of infectious disease transmission issues for blood, organs, blood stem cells and tissues.

On September 29, 2022, the Secretary approved for the ACBTSA charter to be renewed. The new charter was filed with the appropriate Congressional committees and the Library of Congress on October 9, 2022. Renewal of the Committee's charter gives authorization for the Committee to continue to operate until October 9, 2024.

A copy of the ACBTSA charter is available on the Committee's website at *https://www.hhs.gov/oidp/advisory-committee/blood-tissue-safety-availability/charter/index.html.*

Dated: November 2, 2022.

James J. Berger,

DFO, Advisory Committee on Blood and Safety and Availability, Office of HIV/AIDS and Infectious Disease Policy.

[FR Doc. 2022–24610 Filed 11–9–22; 8:45 am]

BILLING CODE 4150–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting for the Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC)

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services (Secretary) announces a meeting of the Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC).

The ISUDCC is open to the public and members of the public can attend the meeting via telephone or webcast only, and not in person. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include information on establishing ISUDCC working groups, and their deliverables in support for the mission and work of the Committee; federal advances to address challenges in substance use disorder (SUD); and non-federal advances to address challenges in SUD.

Committee Name: Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC).

DATES: December 20, 2022, 11:30 a.m.–1:30 p.m. EST/Open.

ADDRESSES: The meeting will be held virtually.

The meeting can be accessed via Zoom.

FOR FURTHER INFORMATION CONTACT: Tracy Goss, ISUDCC Designated Federal Officer, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, 13E37B, Rockville, MD 20857; telephone: 240–276–0759; email: *Tracy.Goss@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Interdepartmental Substance Use Disorders Coordinating Committee is required under Section 7022 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act, Pub. L. 115–271) to accomplish the following duties: (1) identify areas for improved coordination of activities, if any, related to substance use disorders, including research, services, supports, and prevention activities across all relevant federal agencies; (2) identify and provide to the Secretary recommendations for improving federal programs for the prevention and treatment of, and recovery from, substance use disorders, including by expanding access to prevention, treatment, and recovery services; (3) analyze substance use disorder prevention and treatment strategies in different regions of and populations in the United States and evaluate the extent to which federal substance use disorder prevention and treatment strategies are aligned with State and local substance use disorder prevention and treatment strategies; (4) make recommendations to the Secretary regarding any appropriate changes with respect to the activities and strategies described in items (1) through (3) above; (5) make recommendations to the Secretary regarding public participation in decisions relating to substance use disorders and the process by which public feedback can be better integrated into such decisions; and (6) make recommendations to ensure that substance use disorder research, services, supports, and prevention activities of the Department of Health and Human Services and other federal agencies are not unnecessarily duplicative.

Not later than one year after the date of the enactment of this Act, and annually thereafter for the life of the Committee, the Committee shall publish on the internet website of the Department of Health and Human Services, which may include the public information dashboard established under section 1711 of the Public Health Service Act, as added by section 7021, a report summarizing the activities carried out by the Committee pursuant to subsection (e), including any findings resulting from such activities.

II. Membership

This ISUDCC consists of federal members listed below or their designees, and non-federal public members.

Federal Membership: Members include, The Secretary of Health and Human Services; The Attorney General of the United States; The Secretary of Labor; The Secretary of Housing and Urban Development; The Secretary of Education; The Secretary of Veterans Affairs; The Commissioner of Social Security; The Assistant Secretary for Mental Health and Substance Use; The Director of National Drug Control Policy; representatives of other Federal agencies that support or conduct activities or programs related to substance use disorders, as determined appropriate by the Secretary.

Non-federal Membership: Members include, 17 non-federal public members appointed by the Secretary, representing individuals who have received treatment for a diagnosis of a substance use disorder; directors of State substance use agencies; representatives of leading research, advocacy, or service organizations for adults with substance use disorder; physicians, licensed mental health professionals, advance practice registered nurses, and physician assistants, who have experience in treating individuals with substance use disorders; substance use disorder treatment professionals who provide treatment services at a certified opioid treatment program; substance use disorder treatment professionals who have research or clinical experience in

working with racial and ethnic minority populations; substance use disorder treatment professionals who have research or clinical mental health experience in working with medically underserved populations; state-certified substance use disorder peer support specialists; drug court judge or a judge with experience in adjudicating cases related to substance use disorder; public safety officers with extensive experience in interacting with adults with a substance use disorder; and individuals with experiences providing services for homeless individuals with a substance use disorder.

The ISUDCC is required to meet at least twice per calendar year.

To attend virtually, submit written or brief oral comments, or request special accommodation for persons with disabilities, contact Tracy Goss. Individuals can also register on-line at: *https://snacregister.samhsa.gov.*

The public comment section will be scheduled at the conclusion of the meeting. Individuals interested in submitting a comment, must notify Tracy Goss on or before December 5, 2022 via email to: *Tracy.Goss@samhsa.hhs.gov.*

Up to two minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record of the meeting.

Substantive meeting information and a roster of Committee members is available at the Committee's website: *https://www.samhsa.gov/about-us/advisory-councils/isudcc.*

Dated: November 7, 2022.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2022–24602 Filed 11–9–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0576]

Draft Guidance for Nationally Consistent Coastal Zone Area Contingency Plan Architecture

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability, in the docket, of a draft guidance document intended to establish a new, nationally consistent architecture for coastal zone Area Contingency Plans (ACPs). ACPs are required by the Clean Water Act and demonstrate the planning for oil and hazardous substance incident response at the local level. ACPs for areas within the coastal zone are approved by the Coast Guard. To modernize coastal ACPs, improve usability and attain national consistency the Coast Guard is developing new policy pertaining to ACP architecture. This new, standardized construct will better enable industry plan writers of vessel and facility response plans with multiple, diverse operating areas to consistently align with Coast Guard approved ACPs. A more standardized approach will minimize confusion due to highly variable ACP structure and content and will also facilitate more efficient response, especially for large sale responses requiring mobilization of personnel and resources from outside the region. Additionally, adopting a nationally consistent architecture will facilitate the Coast Guard's development of more modern, app-based ACP products for end users.

DATES: Comments must be submitted to the online docket via *https://www.regulations.gov* on or before January 9, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0576 using the Federal eRulemaking 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: For information about this document call or email Jonathan Smith, Coast Guard; telephone 202–372–2675, email *Jonathan.R.Smith@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Public Participation and Comments

We encourage you to submit comments (or related material) on the draft guidance document in the docket. We will consider all submissions and may adjust our final action based on your comments. The Coast Guard Office of Marine Environmental Response Policy will release A Marine Safety Information Bulletin (MSIB) containing the final product. When available, the MSIB will be posted here: *https://homeport.uscg.mil/missions/environmental/hq-mer-msib.* If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice as being available in the docket, and public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

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 in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

The USCG requests comments from all stakeholders who use or have a role in the development of ACPs, including but not limited to: federal agencies with a nexus to the National Response System; tribal representatives; State and local agencies (Local Emergency Planning Committees; emergency managers, response personnel; Oil Spill Removal Organizations and environmental consultants; Non-profit and voluntary organizations; Industry plan holders; and any other organizations active in area committee functions. Comments received will be considered in preparing final guidance document(s).

Background and Purpose

ACPs are required by Title IV, Section 4202 of the Oil Pollution Act of 1990, which amends Subsection (j) of Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321 (j)), as amended by the Clean Water Act of 1977 (33 U.S.C. 1251 et. seq.) to address the development of a National Planning and Response System. ACPs are also written in conjunction with the National Oil and Hazardous Substance Pollution Contingency Plan (NCP) (40 CFR part 300) and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*) as amended by the Superfund Amendments and Reauthorization Act of 1986. Under the

NCP, the Coast Guard and Environmental Protection Agency (EPA) provide the leadership of the National Response Team (NRT), the Regional Response Teams (RRT) and local Area Committees to engage the National Response System to verify threats (spill potential), identify risks (resources that might be harmed in a spill), and establish the strategies necessary to prepare for and respond to a pollution incident or event.

The Coast Guard and EPA are responsible for organizing and overseeing the Area Committees and each Area Committee is responsible for developing the ACP for their area of responsibility. ACPs outline the plan for oil and hazardous substance incident response at the local level. Additionally, ACPs describe the strategy for the Federal On-Scene Coordinator (FOSC) to achieve a unified and coordinated response with federal, state, local, tribal, territorial, responsible party (RP), and other stakeholders. The predesignated FOSC has the legal responsibility to both plan for and respond to oil or hazardous substance spills in their area of responsibility. Pursuant to Executive Order 12777 (of October 22, 1991) the EPA provides the FOSC responsible for overseeing area contingency planning and response in the inland zone and the Coast Guard provides the FOSC for the coastal zone.

As per the NCP, the coastal zone is defined as ''*all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, waters of the contiguous zone, other waters of the of the high seas subjected to the NCP, and the land surface or land substrata, ground waters, and ambient air proximal to those waters.*'' ACPs are an integral component of the National Response System, as outlined in the NCP, which is comprised of federal, state, and local responders and private sector partners. The NRS provides a framework for coordination to respond effectively and efficiently to oil discharges; releases of hazardous substances, pollutants and contaminants; and radiological substances. As prescribed in the NCP, ACPs are part of a broader, layered system of plans designed to work in a synchronized manner. As required by the FWPCA, vessel and facility response plans must be consistent with the applicable ACPs for the areas in which they operate.

Please note that the proposed guidance is for a macro level ACP architecture only, and that the USCG recognizes that some degree of local variability is expected beneath the macro level elements. The USCG will continue to advance additional, more detailed policy guidance supporting this new ACP architecture.

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: November 4, 2022.

T.L. Wirth,

Captain, U.S. Coast Guard, Office of Marine Environmental Response Policy.

[FR Doc. 2022–24521 Filed 11–9–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0029; OMB No. 1660–NW152]

Agency Information Collection Activities: Proposed Collection; Comment Request; Logistics Supply Chain Management System Cloud (LSCMS–C) Access Control Form

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of new collection and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the public to take this opportunity to comment on an existing information collection in use without an Office of Management and Budget (OMB) control number. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Logistics Supply Chain Management System Cloud (LSCMS–C) Access Control Form, which is required for internal and external personnel who need access to the LSCMS–C operational system to process supply chain management transactions.

DATES: Comments must be submitted on or before January 9, 2023.

ADDRESSES: Submit comments at *www.regulations.gov* under Docket ID FEMA–2022–0029. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID, and will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Natasha Hinkson, Logistics Management Directorate, Logistics System Division IT Support Branch Chief, 202–658–9394, *Natasha.Hinkson@fema.dhs.gov.* You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The LSCMS–C system requires role-based access, which is based on an individual's position, to complete day to day supply chain management transactions for the Office of Response and Recovery's Logistics Management Directorate (LMD). Transactions include the ordering, tracking, monitoring, reporting, and shipping of FEMA assets and critical commodities both domestically and Outside the Continental United States (OCONUS) in support of disaster operations.

Authorized users of the LSCMS–C operational system will have access to minimal personally identifiable information, primarily point of contact information associated with the disaster commodities and assets order entry request for other end users to complete the fulfillment of FEMA orders for ordering, receiving, and delivery of the commodities and assets for FEMA Disaster Response and Recovery activities, as well as non-disaster activities for Mission Support.

The Transportation Service Providers (TSP) Registration Form is additionally required for Transportation Service Providers who would like to apply to be a part of the FEMA Standard Tender of Service (FEMA STOS) program for FEMA STOS specific information that will be included in their LSCMS–C profiles.

The authorities to collect and use this information are applicable to all Federal agencies under the Interstate Commerce Act, Federal Acquisition Regulation (FAR), and General Services Administration's Federal Management Regulation. The authorities include:

- Interstate Commerce Act, 49 U.S.C. 10721, 13712;
- Federal Acquisition Regulation, Subpart A-General; part 47, ''Transportation'';
- Federal Management Regulation, 41 CFR parts 102–117, 102–118;
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207;
- Homeland Security Act of 2002, 6 U.S.C. 311 *et seq.*

Collection of Information

Title: Logistics Supply Chain Management System Cloud (LSCMS–C) Access Control Form.

Type of Information Collection: Existing collection in use without an OMB control number.

OMB Number: 1660–NW152.

FEMA Forms: FEMA Form FF–145–FY–22–102 (formerly 119–0–0–20), Logistics Supply Chain Management System Cloud (LSCMS–C) Access Control Form; FEMA Form FF–145–FY–22–103, Transportation Service Providers (TSP) Registration Form.

Abstract: The Logistics Supply Chain Management System Cloud (LSCMS–C) Access Control Form is required for FEMA or Non-FEMA personnel who require access to the LSCMS–C operational system, enabling end users to process supply chain management transactions. The LSCMS–C Access Control Form is completed by internal and external users who require access. The Transportation Service Providers (TSP) Registration Form is additionally required for Transportation Service Providers who would like to apply to be a part of the FEMA Standard Tender of Service (FEMA STOS) program for FEMA STOS specific information that will be included in their LSCMS–C profiles.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 984.

Estimated Number of Responses: 2,952.

Estimated Total Annual Burden Hours: 885.6.

Estimated Total Annual Respondent Cost: $25,531.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $3,775,509.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2022–24527 Filed 11–9–22; 8:45 am]

BILLING CODE 9111–24–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2281]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before February 8, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2281, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of

the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Assistant Administrator for Risk Management (Acting), Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Mendocino County, California and Incorporated Areas Project: 18–09–0035S Preliminary Date: April 29, 2022	
City of Ukiah	City Hall, 300 Seminary Avenue, Ukiah, CA 95482.
Unincorporated Areas of Mendocino County	Mendocino County Planning and Building Services Department, 860 North Bush Street, Ukiah, CA 95482.
City and County of Denver, Colorado Project: 19–08–0041S Preliminary Date: April 18, 2022	
City and County of Denver	Department of Transportation and Infrastructure, 201 West Colfax Avenue, Department 608, Denver, CO 80202.
Ouray County, Colorado and Incorporated Areas Project: 21–08–0016S Preliminary Date: February 17, 2022	
City of Ouray	City Hall, 320 6th Avenue, Ouray, CO 81427.
Town of Ridgway	Town Hall, 201 North Railroad Street, Ridgway, CO 81432.
Unincorporated Areas of Ouray County	Ouray County Courthouse, 541 4th Street, Ouray, CO 81427.
Emmons County, North Dakota and Incorporated Areas Project: 19–08–0021S Preliminary Date: December 8, 2021	
City of Linton	City Hall, 101 Northeast 1st Street, Linton, ND 58552.
Unincorporated Areas of Emmons County	Emmons County Courthouse, 100 4th Street Northwest, Linton, ND 58552.

[FR Doc. 2022–24515 Filed 11–9–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2285]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before February 8, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2285, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act

of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Assistant Administrator for Risk Management (Acting), Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Lonoke County, Arkansas and Incorporated Areas **Project: 21–06–0050S Preliminary Date: June 7, 2022**	
City of Cabot	City Hall, 101 North 2nd Street, Cabot, AR 72023.
Unincorporated Areas of Lonoke County	Lonoke County Floodplain Administrator Office, 210 North Center Street, Lonoke, AR 72086.
Clay County, Iowa and Incorporated Areas **Project: 21–07–0001S Preliminary Date: June 16, 2022**	
City of Spencer	Planning Department, 101 West 5th Street, Spencer, IA 51301.
Unincorporated Areas of Clay County	Clay County Administration Building, 300 West 4th Street, Spencer, IA 51301.
Scott County, Iowa and Incorporated Areas **Project: 19–07–0022S Preliminary Dates: July 16, 2021 and July 20, 2022**	
City of Bettendorf	City Hall, 1609 State Street, Bettendorf, IA 52722.
City of Buffalo	City Hall, 329 Dodge Street, Buffalo, IA 52728.
City of Davenport	City Hall, 226 West 4th Street, Davenport, IA 52801.
City of Panorama Park	City Hall, 120 Short Street, Panorama Park, IA 52722.
City of Riverdale	City Hall, 110 Manor Drive, Riverdale, IA 52722.
Unincorporated Areas of Scott County	Scott County Administrative Center, 600 West 4th Street, Davenport, IA 52801.
Ottawa County, Kansas and Incorporated Areas **Project: 21–07–0028S Preliminary Date: July 12, 2022**	
City of Bennington	City Office, 121 North Nelson Street, Bennington, KS 67422.
City of Culver	City Hall, 205 Kansas Avenue, Culver, KS 67484.
City of Delphos	City Office, 112 North Main Street, Delphos, KS 67436.
City of Minneapolis	City Hall, 311 North Mill Street, Minneapolis, KS 67467.
City of Tescott	City Office, 101 North Main Street, Tescott, KS 67484.
Unincorporated Areas of Ottawa County	Ottawa County Courthouse, 307 North Concord Street, Suite 102, Minneapolis, KS 67467.

[FR Doc. 2022–24513 Filed 11–9–22; 8:45 am]

BILLING CODE 9111–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2286]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before February 8, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2286, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Assistant Administrator for Risk Management (Acting), Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Northumberland County, Pennsylvania (All Jurisdictions) **Project: 15–03–0140S Preliminary Dates: September 30, 2021 and June 30, 2022**	
Borough of Riverside	Borough Building, 415 Dewart Street, Riverside, PA 17868.
City of Shamokin	City Hall, 47 East Lincoln Street, Shamokin, PA 17872.
City of Sunbury	Municipal Building, 225 Market Street, Sunbury, PA 17801.
Township of Coal	Municipal Building, 805 West Lynn Street, Coal Township, PA 17866.
Township of Lower Augusta	Township of Lower Augusta Building, 609 Hallowing Run Road, Sunbury, PA 17801.
Township of Lower Mahanoy	Township of Lower Mahanoy Building, 550 Hickory Road, Dalmatia, PA 17017.
Township of Shamokin	Shamokin Township Municipal Building, 138 Old Reading Road, Sunbury, PA 17801.

Community	Community map repository address
Township of Upper Augusta	Upper Augusta Township Municipal Building, 2087 Snydertown Road, Sunbury, PA 17801.

[FR Doc. 2022–24517 Filed 11–9–22; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Assistant Administrator for Risk Management (Acting), Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arizona:					
Yavapai (FEMA Docket No.: B–2259).	Town of Chino Valley (21–09–0899P).	The Honorable Jack W. Miller, Mayor, Town of Chino Valley, 202 North State Route 89, Chino Valley, AZ 86323.	Development Services and Planning Department, 1982 Voss Drive, Suite 203, Chino Valley, AZ 86323.	Oct. 28, 2022	040094
Yavapai (FEMA Docket No.: B–2259).	Unincorporated areas of Yavapai County (21–09–0899P).	The Honorable Mary L. Mallory, Chair, Yavapai County Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305.	Yavapai County Flood Control District, 1120 Commerce Drive, Prescott, AZ 86305.	Oct. 28, 2022	040093
Arkansas: Johnson (FEMA Docket No.: B–2253).	Unincorporated areas of Johnson County (21–06–1009P).	The Honorable Herman H. Houston, Johnston County Judge, 215 West Main Street, Clarksville, AR 72830.	Johnson County Courthouse, 215 West Main Street, Clarksville, AR 72830.	Oct. 20, 2022	050441
Colorado:					
Arapahoe (FEMA Docket No.: B–2253).	City of Littleton (21–08–0952P).	The Honorable Kyle Schlachter, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, CO 80120.	Public Works Department, 2255 West Berry Avenue, Littleton, CO 80120.	Oct. 21, 2022	080017
Arapahoe (FEMA Docket No.: B–2253).	Unincorporated areas of Arapahoe County (21–08–0952P).	The Honorable Nancy Jackson, Chair, Arapahoe County, Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	Oct. 21, 2022	080011

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Jefferson (FEMA Docket No.: B–2253).	Unincorporated areas of Jefferson County (21–08–0952P).	The Honorable Andy Kerr, Chair, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	Oct. 21, 2022	080087
Florida:					
Monroe (FEMA Docket No.: B–2253).	Unincorporated areas of Monroe County (22–04–2567P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Oct. 27, 2022	125129
Monroe (FEMA Docket No.: B–2253).	Unincorporated areas of Monroe County (22–04–2665P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Oct. 24, 2022	125129
Orange (FEMA Docket No.: B–2268).	City of Orlando (22–04–0539P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Public Works Department, Engineering Division, 400 South Orange Avenue, 8th Floor, Orlando, FL 32801.	Oct. 25, 2022	120186
Orange (FEMA Docket No.: B–2253).	Unincorporated areas of Orange County (22–04–1714P).	The Honorable Jerry L. Demings, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Public Works Department, Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	Oct. 31, 2022	120179
St. Johns (FEMA Docket No.: B–2259).	Unincorporated areas of St. Johns County (21–04–4854P).	Hunter Conrad, St. Johns County Administrator, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Planning Department, 4040 Lewis Speedway, St. Augustine, FL 32084.	Oct. 31, 2022	125147
Pennsylvania: Chester (FEMA Docket No.: B–2259).	Borough of Downingtown (22–03–0225P).	Stephen T. Sullins, Manager, Borough of Downingtown, 4-10 West Lancaster Avenue, Downingtown, PA 19335.	Borough Hall, 4-10 West Lancaster Avenue, Downingtown, PA 19335.	Oct. 31, 2022	420275
Rhode Island: Newport (FEMA Docket No.: B–2259).	Town of Little Compton (22–01–0157P).	Antonio A. Teixeira, Town of Little Compton Administrator, P.O. Box 226, Little Compton, RI 02837.	Building Department, 40 Commons, Little Compton, RI 02837.	Oct. 24, 2022	440035
South Carolina: Horry (FEMA Docket No.: B–2253).	Unincorporated areas of Horry County (22–04–0124P).	The Honorable Johnny Gardner, Chair, Horry County Council, P.O. Box 1236, Conway, SC 29528.	Horry County Government Office, 1301 2nd Avenue, Suite 1D09, Conway, SC 29526.	Oct. 21, 2022	450104
Tennessee: Williamson (FEMA Docket No.: B–2268).	Unincorporated areas of Williamson County (22–04–1913P).	The Honorable Rogers Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County Community Development Department, 1320 West Main Street, Suite 400, Franklin, TN 37064.	Oct. 21, 2022	470204
Texas:					
Bell (FEMA Docket No.: B–2259).	City of Killeen (21–06–3142P).	The Honorable Debbie Nash-King, Mayor, City of Killeen, P.O. Box 1329, Killeen, TX 76541.	City Hall, 101 North College Street, Killeen, TX 76541.	Oct. 28, 2022	480031
Collin (FEMA Docket No.: B–2268).	City of McKinney (21–06–1828P).	The Honorable George Fuller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	Oct. 24, 2022	480135
Collin (FEMA Docket No.: B–2268).	Unincorporated areas of Collin County (21–06–1828P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75091.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75091.	Oct. 24, 2022	480130
Dallas (FEMA Docket No.: B–2259).	City of Carrollton (22–06–0338P).	The Honorable Steve Babick, Mayor, City of Carrollton, P.O Box 110535, Carrollton, TX 75011.	Engineering Department, 1945 East Jackson Road, Carrollton, TX 75006.	Oct. 31, 2022	480167
Johnson (FEMA Docket No.: B–2253).	City of Alvarado (22–06–0104P).	The Honorable Jacob Wheat, Mayor, City of Alvarado, 104 West College Street, Alvarado, TX 76009.	City Hall, 104 West College Street, Alvarado, TX 76009.	Oct. 20, 2022	480397
Johnson (FEMA Docket No.: B–2253).	Unincorporated areas of Johnson County (22–06–0104P).	The Honorable Roger Harmon, Johnson County Judge, 2 North Main Street, Cleburne, TX 76033.	Johnson County Public Works Department, 2 North Main Street, Cleburne, TX 76033.	Oct. 20, 2022	480879
Travis (FEMA Docket No.: B–2259).	City of Pflugerville (21–06–2969P).	The Honorable Victor Gonzales, Mayor, City of Pflugerville, 100 East Main Street, Suite 300, Pflugerville, TX 78660.	Development Services Center, 100 West Main Street, Pflugerville, TX 78660.	Oct. 31, 2022	481028
Travis (FEMA Docket No.: B–2259).	Unincorporated areas of Travis County (21–06–2969P).	The Honorable Andy Brown, Travis County Judge, P.O. Box 1448, Austin, TX 78767.	Travis County Transportation and Natural Resources Department, 00 Lavaca Street, 5th Floor, Austin, TX 78701.	Oct. 31, 2022	481026
Williamson (FEMA Docket No.: B–2259).	City of Hutto (21–06–3058P).	The Honorable Mike Snyder, Mayor, City of Hutto, 500 West Live Oak Street, Hutto, TX 78634.	City Hall, 500 West Live Oak Street, Hutto, TX 78634.	Oct. 31, 2022	481047

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Williamson (FEMA Docket No.: B–2259).	Unincorporated areas of Williamson County (21–06–3058P).	The Honorable Bill Gravell, Jr., Williamson County Judge, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Engineering Department, 3151 Southeast Inner Loop, Georgetown, TX 78626.	Oct. 31, 2022	481079
Virginia: Chesterfield (FEMA Docket No.: B–2253).	Unincorporated areas of Chesterfield County (22–03–0241P).	Joseph P. Casey, Chesterfield County Administrator, P.O. Box 40, Chesterfield, VA 23832.	Chesterfield County Environmental Engineering Department, 9800 Government Center Parkway, Chesterfield, VA 23832.	Oct. 20, 2022	510035
Wyoming:					
Big Horn (FEMA Docket No.: B–2259).	Town of Greybull (22–08–0396P).	The Honorable Myles Foley, Mayor, Town of Greybull, 24 South 5th Street, Greybull, WY 82426.	Town Hall, 24 South 5th Street, Greybull, WY 82426.	Oct. 21, 2022	560005
Big Horn (FEMA Docket No.: B–2259).	Unincorporated areas of Big Horn County (22–08–0396P).	The Honorable Dave Neves, Chair, Big Horn County Commissioners, P.O. Box 7, Emblem, WY 82422.	Big Horn County Engineering Department, 425 Murphy Street, Basin, WY 82410.	Oct. 21, 2022	560004

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BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2011–0108]

RIN 1601–ZA11

Identification of Foreign Countries Whose Nationals Are Eligible To Participate in the H–2A and H–2B Nonimmigrant Worker Programs

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration Services (USCIS) may generally only approve petitions for H–2A and H–2B nonimmigrant status for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. Each such notice shall be effective for one year after its date of publication. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 86 countries whose nationals are eligible to participate in the H–2A program and 87 countries whose nationals are eligible to participate in the H–2B program for the coming year.

DATES: The designations in this notice are effective from November 10, 2022 and shall be without effect on November 10, 2023.

FOR FURTHER INFORMATION CONTACT: Ihsan Gunduz, Office of Strategy, Policy, and Plans, Department of Homeland Security, Washington, DC 20528, (202) 282–9708.

SUPPLEMENTARY INFORMATION:

Background

Generally, USCIS may approve H–2A and H–2B petitions for nationals of only those countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries.[1] Such designation must be published as a notice in the **Federal Register** and expires after one year. In designating countries to include on the lists, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) the country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals, and residents of that country who are subject to a final order of removal; (2) the number of final and unexecuted orders of removal against citizens, subjects, nationals, and residents of that country; (3) the number of orders of removal executed against citizens, subjects, nationals, and residents of that country; and (4) such other factors as may serve the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1). Examples of specific factors serving the U.S. interest that are taken into account when considering whether to designate or terminate the designation of a country include, but are not limited to: fraud (*e.g.,* fraud in the H–2 petition or visa application process by nationals of the country, the country's level of cooperation with the U.S. government in addressing H–2 associated visa fraud, and the country's level of information sharing to combat immigration-related fraud), nonimmigrant visa overstay[2] rates for nationals of the country (including but not limited to H–2A and H–2B nonimmigrant visa overstay rates), and non-compliance with the terms and conditions of the H–2 visa programs by nationals of the country.

As previously indicated, *see* 86 FR 2689; 86 FR 62559, in evaluating the U.S. interest, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will generally ascribe a negative weight to evidence that a country had a suspected in-country visa overstay rate of 10 percent or higher with a number of expected departures of 50 individuals or higher in either the H–2A or H–2B classification according to U.S. Customs and Border Protection overstay data, and generally, with the concurrence of the Secretary of State, will terminate designation of that country from the H–2A or H–2B nonimmigrant visa program, as appropriate, unless, after consideration of other relevant factors, it is

[1] With respect to all references to ''country'' or ''countries'' in this document, it should be noted that the Taiwan Relations Act of 1979, Public Law 96–8, Section 4(b)(1), provides that ''[w]henever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.'' 22 U.S.C. 3303(b)(1). Accordingly, all references to ''country'' or ''countries'' in the regulations governing whether nationals of a country are eligible for H–2 program participation, 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1), are read to include Taiwan. This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

[2] An overstay is a nonimmigrant lawfully admitted to the United States for an authorized period, but who remained in the United States beyond his or her authorized period of admission. U.S. Customs and Border Protection (CBP) identifies two types of overstays: (1) individuals for whom no departure was recorded (Suspected In-Country Overstays), and (2) individuals whose departure was recorded after their authorized period of admission expired (Out-of-Country Overstays). For purposes of this **Federal Register** Notice, DHS uses Fiscal Year 2021 CBP nonimmigrant overstay data for the H–2A and H–2B nonimmigrant visa categories and the Fiscal Year 2020 Entry/Exit Overstay Report for all other visa categories. See: *https://www.dhs.gov/sites/default/files/2021-12/CBP%20-%20FY%202020%20Entry%20Exit%20Overstay%20Report_0.pdf.*

determined not to be in the U.S. interest to do so.

Similarly, DHS recognizes that countries designated under long-standing practice by U.S. Immigration and Customs Enforcement (ICE) as ''At Risk of Non-Compliance'' or ''Uncooperative'' with removals based on ICE data put the integrity of the immigration system and the American people at risk. Therefore, unless other favorable factors in the U.S. interest outweigh such designations by ICE, the Secretary of Homeland Security, with the concurrence of the Secretary of State, generally will terminate designation of such countries from the H–2A and H–2B nonimmigrant visa programs. Because there are separate lists for the H–2A and H–2B categories, it is possible that, in applying the above-described regulatory criteria for listing countries, a country may appear on one list but not on the other.

Even where the Secretary of Homeland Security has determined to terminate or decided not to designate a country, DHS, through USCIS, may allow, on a case-by-case basis, a national from a country that is not on the list to be named as a beneficiary of an H–2A or H–2B petition based on a determination that it is in the U.S. interest for that individual noncitizen to be a beneficiary of an H–2 petition. Determination of such U.S. interest will take into account factors, including but not limited to: (1) evidence from the petitioner demonstrating that a worker with the required skills is not available either from among U.S. workers or from among foreign workers from a country currently on the list described in 8 CFR 214.2(h)(5)(i)(F)(1)(i) (H–2A nonimmigrants) or 214.2(h)(6)(1)(E)(1) (H–2B nonimmigrants), as applicable; (2) evidence that the beneficiary has been admitted to the United States previously in H–2A or H–2B status; (3) the potential for abuse, fraud, or other harm to the integrity of the H–2A or H–2B visa program through the potential admission of a beneficiary from a country not currently on the list; and (4) such other factors as may serve the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F)(1)(ii) and 8 CFR 214.2(h)(6)(i)(E)(2).

In December 2008, DHS published the first lists of eligible countries for the H–2A and H–2B Visa Programs in the **Federal Register**. These notices, ''Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H–2A Visa Program,'' and ''Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H–2B Visa Program,'' designated 28 countries whose nationals were eligible to participate in the H–2A and H–2B programs. *See* 73 FR 77043 (Dec. 18, 2008); 73 FR 77729 (Dec. 19, 2008). The notices ceased to have effect on January 17, 2009, and January 18, 2009, respectively. Since the publication of the first lists in 2008, with the concurrence of the Secretary of State, has published a series of notices on a regular basis. *See* 75 FR 2879 (Jan. 19, 2010) (adding 11 countries to both programs); 76 FR 2915 (Jan. 18, 2011) (removing one country from and adding 15 countries to both programs); 77 FR 2558 (Jan. 18, 2012) (adding five countries to both programs); 78 FR 4154 (Jan. 18, 2013) (adding one country to both programs); 79 FR 3214 (Jan.17, 2014) (adding four countries to both programs); 79 FR 74735 (Dec. 16, 2014) (adding five countries to both programs); 80 FR 72079 (Nov. 18, 2015) (removing one country from the H–2B program and adding 16 countries to both programs); 81 FR 74468 (Oct. 26, 2016) (adding one country to both programs); 83 FR 2646 (Jan. 18, 2018) (removing three countries from and adding one country to both programs); 84 FR 133 (Jan. 18, 2019) (removing two countries from and adding 2 countries to both programs, removing one country from only the H–2B program, and adding one country to only the H–2A program); 85 FR 3067 (January 17, 2020) (leaving the lists unchanged); 86 FR 2689 (Jan. 13, 2021) (removing two countries from both programs, removing one country from only the H–2A program, and adding one country to only the H–2B program); and 86 FR 62559 (Nov. 10, 2021) (removing one country from only the H–2A program, adding one country to only the H–2B program, and separately adding five countries to both programs).

Determination of Countries With Continued Eligibility

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that the 85 countries previously designated to participate in the H–2A program in the November 10, 2021 notice continue to meet the regulatory standards for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H–2A program. Additionally, the Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that the 86 countries previously designated to participate in the H–2B program in the November 10, 2021 notice continue to meet the regulatory standards for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H–2B program. These determinations take into account how the regulatory factors identified above apply to each of these countries.

Consistent with the previous notices, nationals of non-designated countries may still be beneficiaries of approved H–2A and H–2B petitions upon the request of the petitioner if USCIS determines, as a matter of discretion and on a case-by-case basis, that it is in the U.S. interest for the individual to be a beneficiary of such petition. *See* 8 CFR 214.2(h)(5)(i)(F)(1)(ii) and 8 CFR 214.2(h)(6)(i)(E)(2). USCIS may favorably consider a beneficiary of an H–2A or H–2B petition who is not a national of a country included on the H–2A or H–2B eligibility lists as serving the national interest, depending on the totality of the circumstances. Factors USCIS may consider include, among other things, whether a beneficiary has previously been admitted to the United States in H–2A or H–2B status and complied with the terms of the program. An additional factor for beneficiaries of H–2B petitions, although not necessarily determinative standing alone, would be whether the H–2B petition qualifies under section 1049 of the National Defense Authorization Act (NDAA) for FY 2018, Public Law 115–91, section 1045 of the NDAA for FY 2019, Public Law115–232, or section 9502 of the NDAA for FY 2021, Public Law 116–283. However, any ultimate determination of eligibility will be made according to all the relevant factors and evidence in each individual circumstance.

Countries Now Designated as Eligible

The Secretary of Homeland Security has also determined, with the concurrence of the Secretary of State, the Kingdom of Eswatini (Eswatini) should be designated as an eligible country to participate in both the H–2A and H–2B nonimmigrant visa programs because its participation is in the U.S. interest consistent with the regulations governing these programs.

Nationals of Eswatini do not present significant visa overstay concerns and are generally compliant with the terms and conditions of all visa categories. Additionally, the Department of State (DOS) does not have significant fraud concerns associated with visa applications submitted by nationals of Eswatini. DOS believes that adding Eswatini to the H–2 eligible country lists would further strengthen an already strong relationship with the United States. Eswatini continues to be a valued partner and is working closely with DOS on the implementation of

DOS Counterterrorism Bureau's Personal Identification Secure Comparison and Evaluation System (PISCES) to combat transnational crime and improve interdiction capabilities at major border crossings. On August 10, 2022, the United States Ambassador to Eswatini and Government of Eswatini National Commissioner of Police signed a Memorandum of Intent agreeing to move forward with the deployment of PISCES throughout Eswatini. Therefore, adding Eswatini to both the H–2A and H–2B eligible countries lists serves the U.S. interest.

Designation of Countries Whose Nationals Are Eligible To Participate in the H–2A and H–2B Nonimmigrant Worker Programs

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1) and 1185(a)(1), I am designating, with the concurrence of the Secretary of State, the following countries as those whose nationals are eligible to participate in the H–2A nonimmigrant worker program:

1. Andorra
2. Argentina
3. Australia
4. Austria
5. Barbados
6. Belgium
7. Bosnia and Herzegovina
8. Brazil
9. Brunei
10. Bulgaria
11. Canada
12. Chile
13. Colombia
14. Costa Rica
15. Croatia
16. Republic of Cyprus
17. Czech Republic
18. Denmark
19. Dominican Republic
20. Ecuador
21. El Salvador
22. Estonia
23. The Kingdom of Eswatini
24. Fiji
25. Finland
26. France
27. Germany
28. Greece
29. Grenada
30. Guatemala
31. Haiti
32. Honduras
33. Hungary
34. Iceland
35. Ireland
36. Israel
37. Italy
38. Jamaica
39. Japan
40. Kiribati
41. Latvia
42. Liechtenstein
43. Lithuania
44. Luxembourg
45. Madagascar
46. Malta
47. Mauritius
48. Mexico
49. Monaco
50. Montenegro
51. Mozambique
52. Nauru
53. The Netherlands
54. New Zealand
55. Nicaragua
56. North Macedonia (formerly Macedonia)
57. Norway
58. Panama
59. Papua New Guinea
60. Paraguay
61. Peru
62. Poland
63. Portugal
64. Romania
65. Saint Lucia
66. San Marino
67. Serbia
68. Singapore
69. Slovakia
70. Slovenia
71. Solomon Islands
72. South Africa
73. South Korea
74. Spain
75. St. Vincent and the Grenadines
76. Sweden
77. Switzerland
78. Taiwan
79. Thailand
80. Timor-Leste
81. Turkey
82. Tuvalu
83. Ukraine
84. United Kingdom
85. Uruguay
86. Vanuatu

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1) and 1185(a)(1)), I am designating, with the concurrence of the Secretary of State, the following countries as those whose nationals are eligible to participate in the H–2B nonimmigrant worker program:

1. Andorra
2. Argentina
3. Australia
4. Austria
5. Barbados
6. Belgium
7. Bosnia and Herzegovina
8. Brazil
9. Brunei
10. Bulgaria
11. Canada
12. Chile
13. Colombia
14. Costa Rica
15. Croatia
16. Republic of Cyprus
17. Czech Republic
18. Denmark
19. Dominican Republic
20. Ecuador
21. El Salvador
22. Estonia
23. The Kingdom of Eswatini
24. Fiji
25. Finland
26. France
27. Germany
28. Greece
29. Grenada
30. Guatemala
31. Haiti
32. Honduras
33. Hungary
34. Iceland
35. Ireland
36. Israel
37. Italy
38. Jamaica
39. Japan
40. Kiribati
41. Latvia
42. Liechtenstein
43. Lithuania
44. Luxembourg
45. Madagascar
46. Malta
47. Mauritius
48. Mexico
49. Monaco
50. Mongolia
51. Montenegro
52. Mozambique
53. Nauru
54. The Netherlands
55. New Zealand
56. Nicaragua
57. North Macedonia (formerly Macedonia)
58. Norway
59. Panama
60. Papua New Guinea
61. Peru
62. The Philippines
63. Poland
64. Portugal
65. Romania
66. Saint Lucia
67. San Marino
68. Serbia
69. Singapore
70. Slovakia
71. Slovenia
72. Solomon Islands
73. South Africa
74. South Korea
75. Spain
76. St. Vincent and the Grenadines
77. Sweden
78. Switzerland
79. Taiwan
80. Thailand
81. Timor-Leste
82. Turkey
83. Tuvalu
84. Ukraine
85. United Kingdom
86. Uruguay
87. Vanuatu

This notice does not affect the current status of noncitizens who at the time of publication of this notice hold valid H–2A or H–2B nonimmigrant status. Noncitizens currently holding such status, however, will be affected by this notice should they seek an extension of stay in the H–2 classification, or a change of status from one H–2 status to

another, for employment on or after the effective date of this notice. Similarly, noncitizens holding nonimmigrant status other than H–2 are not affected by this notice, but will be affected by this notice if they seek a change of status to H–2 on or after the effective date of this notice.

Nothing in this notice limits the authority of the Secretary of Homeland Security or his designee or any other federal agency to invoke against any foreign country or its nationals any other remedy, penalty, or enforcement action available by law.

Alejandro N. Mayorkas,

Secretary of Homeland Security.

[FR Doc. 2022–24539 Filed 11–9–22; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Extension From OMB of One Current Public Collection of Information: TSA Canine Training Center Adoption Application

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0067, abstracted below, that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves gathering information from individuals who wish to adopt a TSA canine through the TSA Canine Training Center (CTC) Adoption Program.

DATES: Send your comments by January 9, 2023.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0067; TSA Canine Training Center Adoption Application. The TSA Canine Program is a Congressionally-mandated program that operates as a partnership among TSA; aviation, mass transit, and maritime sectors; and State and local law enforcement. TSA operates the CTC Adoption Program in accordance with the Federal Management Regulations.

TSA developed the CTC to train and deploy explosive detection canine teams for TSA and for local, State, and Federal agencies in support of daily activities that protect the transportation domain. Canine teams consist of TSA employees, or local/State law enforcement officers, paired with explosives detection canines. These canine teams are trained on a variety of explosives and screening capabilities based on intelligence data and emerging threats. Canine teams are deployed after successfully undergoing a 10- or 12-week training program.

Of the canines purchased by TSA for purposes of the TSA Canine Program, approximately 83 percent graduate from the training program. These canines are continually assessed to ensure they demonstrate operational proficiency in their environment. The corresponding attrition rate is between 15–18 percent. Attrition arises from canines who do not graduate from the training program and those who successfully graduate, but are later assessed as not performing at operational proficiency. CTC typically repurposes 42 percent of the canines eliminated from the program to other Federal, State, and local law enforcement agencies.

Canines that attrite out of the program and not repurposed for other government-purposes may be placed for adoption. TSA created the CTC Adoption Program to find suitable individuals or families to adopt the canines and to provide good homes. Individuals seeking to adopt a TSA canine must complete the CTC Adoption Application.

The CTC Adoption Application is an online application that collects personal information from members of the public to determine their suitability to adopt a TSA canine. TSA uses the information collected to evaluate the individual seeking to adopt a TSA canine against program guidelines developed by CTC. The collection includes information about the individual's household, personal references, and current pet and veterinarian information. In addition, the individual must agree to transport the canine home from CTC in San Antonio, Texas, and to provide any necessary medical care, including, but not limited to, heartworm and flea preventives, and annual vaccinations, for the duration of the canine's life. TSA also collects an attestation that all information submitted is true.

TSA estimates that annually 300 individuals will complete the adoption application and that it will take approximately 10 minutes or 0.1666 hours. This will give an estimated annual time burden to the public of 50 hours.

Dated: November 7, 2022.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2022–24562 Filed 11–9–22; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–58]

30-Day Notice of Proposed Information Collection

HUD Standardized Grant Application Forms: Detailed Budget Form (HUD Form 424–CB) HUD Detailed Budget Worksheet (HUD Form 424–CBW), HUD Funding Matrix (HUD 424–M), Application for Federal Assistance (SF–424), Assurances and Certifications for Recipients and Applicants (HUD 424–B), Disclosure of Lobbying Activities

(SF–LLL), Certification Regarding Lobbying Activities (Lobbying Form), HUD- 2880 Applicant/Recipient Disclosure/Update Report, Project Abstract Form, and Budget Information for Non-Construction Programs (SF–424A); OMB Control No.: 2501–0017

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal. This notice replaces the notice HUD published on November 4, 2022.

DATES: *Comments Due Date:* December 12, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.* 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: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 8, 2022, at 87 FR 48194.

A. Overview of Information Collection

Title of Information Collection: HUD Standardized Grant Application Forms.

OMB Approval Number: 2501–0017.

Type of Request: This is a reinstatement with change of a currently approved collection.

Form Number: SF 424; SF LLL; Lobbying Form; SF 424–A; HUD 424–B; HUD 424–CB; HUD 424–CBW; HUD 424–M; HUD 2880.

Description of the need for the information and proposed use: Approval is sought for revision of the Information Collection Request of HUD standardized forms which are used by various HUD programs that use a competitive application process to award financial assistance. The HUD Common Budget Form—(HUD 424–CB), the Common Budget Form Worksheet (HUD 424–CBW), the Assurances and Certifications Form—(HUD 424–B), and the HUD Matrix (HUD–M) are used to offer standardized application forms. The Federal Financial Assistance Improvement Act of 1999 (Public Law 106–107, signed November 20, 1999) encourages standardization.

In addition, as noted under the Office of Management and Budget (OMB) Control Number heading, the collection references a number of government-wide forms, including forms from the Standard Form (SF) Family, which are used for all HUD applications and available on *grants.gov*. The burden associated with these government-wide forms are reflected in separate OMB-sponsored government-wide information collections and are not reflected in this collection. Additional OMB control numbers applicable to government wide Standardized Forms (SF) are also noted in this collection. As the burden is accounted for in those separate collections, it is not included in this calculation.

Also, form HUD 96011 (formerly under OMB Approval No. 2535–0118) and form HUD 96010 (formerly under OMB number 2535–0114) are eliminated from this collection. Further, HUD combined into this collection form HUD 2880 Applicant/Recipient Disclosure/Update Report (formerly approved under OMB control number 2501–0032) to consolidate public input and burden into one OMB control number. The form HUD 2880 is also updated to reflect changes to the information respondents report in the Employee ID field under Part III of the form. For each person reported in Part III, HUD expects applicants to provide a unique ID that is not the person's social security number. Lastly, the updated form HUD 2880 includes updates to the certification language, which now reads as follows:

I/We, the undersigned, certify under penalty of perjury that the information provided above is true, correct, and accurate. Warning: If you knowingly make a false statement on this form, you may be subject to criminal and/or civil penalties under 18 U.S.C. 1001. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

All HUD-specific forms in this information collection have been modified to include updated Paperwork Reduction Act burden statements, in order to comply with 5 CFR 1320.8(b)(3). The burden statements now reads as follows:

The public reporting burden for this collection of information is estimated to average [X] hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of the requested information. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th St. SW, Room 4176, Washington, DC 20410–5000. Do not send completed forms to this address. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid OMB control number. The information you provide will enable HUD to carry out its responsibilities under this Act and ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. This information is required to obtain the benefit sought in the HUD program. Failure to provide any required information may delay the processing of your application and may result in sanctions and penalties including of the administrative and civil money penalties specified under 24 CFR 4.38. This information will not be held confidential and may be made available to the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response [1]	Annual cost
SF 424	0	0		0	0	0	0
SF LLL	0	0		0	0	0	0
Lobbying Form	0	0		0	0	0	0
SF 424–A	0	0		0	0	0	0
HUD 424–B	14,375	1.2	17,250	0.5	8,625.00	45.43	391,833.75
HUD 424–CB	1,375	1.2	1,650	3	4,950.00	45.43	224,878.50
HUD 424–CBW	1,375	1.2	1,650	3	4,950.00	45.43	224,878.50
HUD 424–M	250	1.2	300	0.5	150.00	45.43	6,814.50
HUD 2880	14,375	1.2	17,250	2	34,500.00	45.43	1,567,335.00
Total			38,100	9	53,175.00		2,415,740.25

[1]Median hourly rate for ''Project Management Specialists'' (occupation code 13–1082), May 2021 National Occupational Employment and Wage Estimates United States, *https://www.bls.gov/oes/current/oes_nat.htm#11-0000.*

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Data Officer.

[FR Doc. 2022–24494 Filed 11–9–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6328–C–02]

Notice of Annual Factors for Determining Administrative Fees for the Section 8 Housing Choice Voucher, Mainstream, and Moderate Rehabilitation Programs for Calendar Year 2022; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice; correction.

SUMMARY: On August 25, 2022, HUD published a notice in the **Federal Register** entitled ''Notice of Annual Factors for Determining Administrative Fees for the Section 8 Housing Choice Voucher, Mainstream, and Moderate Rehabilitation Programs for Calendar Year 2022''. The published notice omitted specific information and included incorrect website links. To clarify any misinformation, this notice replaces the notice published on August 25, 2022. This Notice announces the monthly per unit fee rates for use in determining the on-going administrative fees for public housing agencies (PHAs) administering the Housing Choice Voucher (HCV), Mainstream, and Moderate Rehabilitation programs, including Single Room Occupancy, during calendar year (CY) 2022.

DATES: January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Miguel A. Fontánez, Director, Housing Voucher Financial Management Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4222, Washington, DC 20410–8000, telephone number 202–402–2934. (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.*

SUPPLEMENTARY INFORMATION: On August 25, 2022, HUD issued the ''Notice of Annual Factors for Determining Administrative Fees for the Section 8 Housing Choice Voucher, Mainstream, and Moderate Rehabilitation Programs for Calendar Year 2022'', at 87 FR 52393. The notice published omitted specific information and included incorrect website links. This notice replaces that notice in its entirety for added clarity but does not change the Annual Factors for Determining Administrative Fees.

A. Background

This Notice provides HUD's methodology used to determine the CY 2022 administrative fee rates by area, which HUD uses to determine PHA administrative fees for the HCV, Mainstream Vouchers, Emergency Housing Voucher (EHV) and Moderate Rehabilitation programs, including the Single Room Occupancy (SRO) program.

The HCV Program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Mainstream Vouchers are tenant-based vouchers serving households that include a non-elderly person with a disability. The Emergency Housing Voucher (EHV) program was authorized by the American Rescue Plan Act (ARPA) Public Law 117–2, enacted on March 11, 2021. Through EHV, HUD is providing 70,000 housing choice vouchers to local Public Housing Agencies (PHAs) in order to assist individuals and families who are homeless, at-risk of homelessness, fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, or were recently homeless or have a high risk of housing instability. The Moderate Rehabilitation Program

provides project-based rental assistance for low-income families and the SRO program provides assistance to homeless individuals. Both programs have been repealed and no new projects are authorized for development. Assistance is limited to properties previously rehabilitated, with assistance being provided pursuant to a housing assistance payments (HAP) contract between an owner and a PHA.

B. CY 2022 Methodology

For CY 2022, in accordance with the 2022 Appropriations Act (Pub. L. 117–103), administrative fees are determined based on vouchers leased as of the first day of each month. This data is extracted from the Voucher Management System (VMS) at the close of each reporting cycle and validated prior to use. For Moderate Rehabilitation, including SRO program HAP contracts, administrative fees are earned based on the units under a HAP contract.

In the attached table, two fee rates are provided for each PHA. The first rate, Column A, applies to the first 7200 voucher unit months leased in CY 2022. The second rate, Column B, applies to all remaining voucher unit months leased in CY 2022. However, in the case of EHVs, PHAs are allocated the full Column A administrative fee amount for each EHV that is under HAP contract as of the first day of each month in accordance with PIH Notice 2021–15, Emergency Housing Vouchers—Operating Requirements, issued on May 5, 2021. The funding for EHVs, including administrative fee funding, was appropriated through the ARPA separate and apart from the regular HCV program appropriations provided through HUD's annual appropriations acts. Eligibility for EHVs is limited to the vulnerable populations described earlier and may not be reissued after September 30, 2023.

In some cases, the fee rates calculated for CY 2022 are lower than those established for CY 2021. In these cases, the affected PHAs are held harmless at the CY 2021 fee rates.

The fee rates for each PHA generally cover the fees for areas in which the PHA has the greatest proportion of its participants, based on Public Housing Information Center (PIC) data submitted by the PHA. In some cases, PHAs have participants in more than one fee area. If such a PHA chooses, the PHA may request HUD establish a blended fee rate to proportionately consider all areas in which participants are located. Once a blended rate is established, it is used to determine the PHA's fee eligibility for all months in CY 2022. The 2022 HCV Funding Implementation Notice will describe how to apply for blended fee rates and provide a deadline date for submitting such requests. The Notice can be accessed through the following link: *https://www.hud.gov/program_offices/public_indian_housing/publications/notices.*

PHAs operating over large geographic areas, defined as multiple counties, may request a higher administrative fee rate if eligible. The 2022 HCV Funding Implementation Notice will describe when to apply for higher fee rates and the deadline date for such requests. Higher administrative fee rates differ from blended administrative fee rates in how they are calculated. Requests for higher administrative rates must clearly demonstrate that the PHA's published rate cannot cover its projected expenses. Next, a breakeven rate is calculated to ensure the PHA receives sufficient funds to cover its expenses while also ensuring the administrative fee reserves do not grow.

This Notice identifies the monthly per-voucher-unit fee rates to be used to determine PHA administrative fee eligibility. These fee rates are accessible through the following link: Current fee rates remain posted at: *https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidance_and_notices,* under the Notices and Guidance for PHAs section.

Direct questions to the PHA's assigned representative at the Financial Management Center or the Financial Management Division at *PIHFinancialManagementDivision@hud.gov*.

C. Moving to Work (MTW) Agencies

In cases where an MTW Agency has an alternative formula for determining HCV Administrative Fees in Attachment A of their MTW Agreements, HUD calculates the HCV Administrative Fees in accordance with that MTW Agreement provision.

Dominique Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

PHA	A rate	B rate
AK901	113.07	105.54
AL001	74.97	69.97
AL002	76.15	71.08
AL004	73.98	69.05
AL005	77.35	72.2
AL006	73.98	69.05
AL007	73.98	69.05
AL008	73.47	68.58
AL011	73.47	68.58
AL012	74.46	69.49
AL014	73.47	68.58
AL047	76.17	71.11
AL048	73.98	69.05
AL049	73.98	69.05
AL050	73.98	69.05
AL052	73.47	68.58
AL053	73.47	68.58
AL054	73.98	69.05
AL060	73.47	68.58
AL061	73.98	69.05
AL063	74.97	69.97
AL068	73.98	69.05
AL069	74.97	69.97
AL072	74.97	69.97
AL073	73.66	68.74
AL075	73.47	68.58
AL077	73.98	69.05
AL086	74.97	69.97
AL090	73.47	68.58
AL091	73.47	68.58
AL099	73.47	68.58
AL105	73.47	68.58
AL107	73.47	68.58
AL112	73.47	68.58
AL114	73.47	68.58
AL115	73.47	68.58
AL116	73.47	68.58
AL118	73.47	68.58
AL121	73.47	68.58
AL124	73.66	68.74
AL125	74.97	69.97
AL129	74.46	69.49
AL131	73.98	69.05
AL138	73.98	69.05
AL139	73.98	69.05
AL152	73.98	69.05
AL154	73.47	68.58
AL155	73.47	68.58
AL160	73.47	68.58
AL165	77.25	72.11
AL169	76.15	71.08
AL171	73.47	68.58
AL172	73.98	69.05
AL174	73.47	68.58
AL177	73.47	68.58
AL181	73.47	68.58
AL192	73.47	68.58
AL202	76.15	71.08
AR002	76.18	71.11
AR003	71.76	66.98
AR004	76.18	71.11
AR006	76.18	71.11
AR010	66.64	62.2
AR012	66.64	62.2
AR015	71.99	67.19
AR016	66.64	62.2
AR017	69.83	65.18
AR020	67.17	62.7
AR024	73.58	68.67
AR031	69.83	65.18
AR033	66.64	62.2
AR034	69.83	65.18
AR035	66.64	62.2
AR037	66.64	62.2
AR039	66.64	62.2
AR041	76.18	71.11
AR042	69.83	65.18
AR045	66.64	62.2
AR052	66.64	62.2
AR066	66.64	62.2
AR068	66.64	62.2
AR082	66.64	62.2
AR104	69.83	65.18
AR117	66.64	62.2
AR121	66.64	62.2
AR131	69.83	65.18
AR152	66.64	62.2

PHA	A rate	B rate
AR161	66.64	62.2
AR163	69.83	65.18
AR166	66.64	62.2
AR170	76.18	71.11
AR175	76.18	71.11
AR176	66.64	62.2
AR177	66.64	62.2
AR181	69.83	65.18
AR194	71.76	66.98
AR197	66.64	62.2
AR200	66.64	62.2
AR210	66.64	62.2
AR211	66.64	62.2
AR213	66.64	62.2
AR214	66.64	62.2
AR215	66.64	62.2
AR223	66.64	62.2
AR224	66.64	62.2
AR225	66.64	62.2
AR232	69.83	65.18
AR240	66.64	62.2
AR241	70.22	65.54
AR247	66.64	62.2
AR252	76.18	71.11
AR257	66.64	62.2
AR264	73.58	68.67
AR265	66.64	62.2
AR266	66.64	62.2
AZ001	83.36	77.79
AZ003	83.36	77.79
AZ004	82.41	76.91
AZ005	83.36	77.79
AZ006	91.14	85.07
AZ008	67.37	62.88
AZ009	83.36	77.79
AZ010	83.36	77.79
AZ013	92.61	86.44
AZ021	83.36	77.79
AZ023	70.98	66.25
AZ025	82.41	76.91
AZ028	83.36	77.79
AZ031	83.36	77.79
AZ032	83.36	77.79
AZ033	82.41	76.91
AZ034	68.49	63.92
AZ035	92.61	86.44
AZ037	68.49	63.92
AZ041	91.14	85.07
AZ043	111.61	104.18
AZ045	69.81	65.15
AZ880	83.36	77.79
AZ901	91.14	85.07
CA001	143.55	133.99
CA002	143.55	133.99
CA003	143.55	133.99
CA004	143.55	133.99
CA005	109.02	101.75
CA006	100.02	93.34
CA007	109.02	101.75
CA008	109.39	102.1
CA011	143.55	133.99
CA014	143.55	133.99
CA019	114.52	106.89
CA021	140.17	130.8
CA022	114.52	106.89
CA023	93.98	87.73
CA024	104.6	97.64
CA026	105.33	98.3
CA027	114.52	106.89
CA028	100.02	93.34
CA030	93.27	87.07
CA031	143.55	133.99
CA032	143.55	133.99
CA033	123.67	115.41
CA035	143.55	133.99
CA039	104.08	97.14
CA041	124.62	116.31
CA043	96.13	89.71
CA044	109.02	101.75
CA048	82.49	76.99
CA052	143.55	133.99
CA053	90.28	84.26
CA055	124.62	116.31
CA056	143.55	133.99
CA058	143.55	133.99
CA059	143.55	133.99
CA060	143.55	133.99
CA061	96.7	90.25
CA062	143.55	133.99
CA063	128.35	119.78
CA064	124.26	115.98
CA065	124.62	116.31
CA066	124.62	116.31
CA067	143.55	133.99
CA068	143.55	133.99
CA069	100.02	93.34
CA070	88.5	82.6
CA071	143.55	133.99
CA072	143.55	133.99
CA073	124.62	116.31
CA074	143.55	133.99
CA075	143.55	133.99
CA076	140.17	130.8
CA077	128.35	119.78
CA079	143.55	133.99
CA082	143.55	133.99
CA084	104.22	97.27
CA085	140.01	130.68
CA086	99.61	92.96
CA088	140.01	130.68
CA092	143.55	133.99
CA093	143.55	133.99
CA094	143.55	133.99
CA096	100.02	93.34
CA102	143.55	133.99
CA103	143.55	133.99
CA104	143.55	133.99
CA105	143.55	133.99
CA106	100.02	93.34
CA108	128.35	119.78
CA110	143.55	133.99
CA111	143.55	133.99
CA114	143.55	133.99
CA116	128.35	119.78
CA117	143.55	133.99
CA118	143.55	133.99
CA119	143.55	133.99
CA120	143.55	133.99
CA121	143.55	133.99
CA123	143.55	133.99
CA125	124.62	116.31
CA126	143.55	133.99
CA128	109.02	101.75
CA131	124.62	116.31
CA132	128.35	119.78
CA136	143.55	133.99
CA143	104.08	97.14
CA144	96.7	90.25
CA149	109.02	101.75
CA151	109.02	101.75
CA155	128.35	119.78
CO001	87.45	81.63
CO002	80.78	75.39
CO005	90.61	84.57
CO006	77.56	72.39
CO016	99.24	92.61
CO019	87.45	81.63
CO024	77.56	72.39
CO028	81.58	76.14
CO031	77.56	72.39
CO034	94.04	87.78
CO035	81.09	75.69
CO036	87.45	81.63
CO040	119.77	111.8
CO041	94.04	87.78
CO043	90.61	84.57
CO045	77.56	72.39
CO048	87.45	81.63
CO049	87.45	81.63
CO050	87.45	81.63
CO051	102.3	95.48
CO052	87.45	81.63
CO057	87.45	81.63
CO058	87.45	81.63
CO061	99.24	92.61
CO070	99.24	92.61
CO071	81.58	76.14
CO072	87.45	81.63
CO079	90.61	84.57
CO087	119.77	111.8
CO090	81.09	75.69
CO095	114.53	106.89
CO101	77.56	72.39
CO103	94.04	87.78
CO888	80.78	75.39
CO911	87.45	81.63
CO921	87.45	81.63
CT001	111.1	103.69
CT002	119.08	111.15
CT003	104.71	97.72
CT004	115.42	107.73
CT005	104.71	97.72
CT006	94.58	88.27
CT007	119.08	111.15
CT008	104.71	97.72
CT009	104.71	97.72
CT010	94.58	88.27
CT011	115.42	107.73
CT013	104.71	97.72
CT015	111.1	103.69
CT017	111.1	103.69
CT018	102.79	95.94
CT019	119.08	111.15
CT020	119.08	111.15
CT023	104.71	97.72
CT024	94.58	88.27
CT026	104.71	97.72
CT027	111.1	103.69
CT028	104.71	97.72
CT029	115.42	107.73
CT030	111.1	103.69
CT031	92.55	86.38
CT032	104.71	97.72
CT033	104.71	97.72
CT036	104.71	97.72
CT038	104.71	97.72
CT039	104.71	97.72
CT040	104.71	97.72
CT041	104.71	97.72
CT042	115.42	107.73
CT047	94.58	88.27
CT048	104.71	97.72
CT049	104.71	97.72
CT051	104.71	97.72
CT052	111.1	103.69
CT053	104.71	97.72
CT058	94.58	88.27
CT061	94.58	88.27
CT063	115.42	107.73
CT067	115.42	107.73
CT068	104.71	97.72
CT901	104.71	97.72

PHA	A rate	B rate
DC001	128.94	120.35
DC880	128.94	120.35
DE001	102.13	95.32
DE002	87.92	82.06
DE003	102.13	95.32
DE005	102.13	95.32
DE901	87.92	82.06
FL001	82.2	76.73
FL002	86.78	80.99
FL003	86.78	80.99
FL004	90.64	84.59
FL005	117.76	109.92
FL007	87	81.2
FL008	95.24	88.89
FL009	91.96	85.82
FL010	110.26	102.91
FL011	72.23	67.41
FL013	116.94	109.17
FL015	77.24	72.08
FL017	117.76	109.92
FL018	70.56	65.85
FL019	83.67	78.11
FL020	83.67	78.11
FL021	91.96	85.82
FL022	87	81.2
FL023	95.24	88.89
FL024	87	81.2
FL025	83.67	78.11
FL026	72.23	67.41
FL028	110.26	102.91
FL030	87	81.2
FL031	68.02	63.48
FL032	71.12	66.37
FL033	90.64	84.59
FL034	86.78	80.99
FL035	70.56	65.85
FL037	82.2	76.73
FL041	92.45	86.29
FL045	92.45	86.29
FL046	70.56	65.85
FL047	91.24	85.16
FL049	68.59	64.01
FL053	71.12	66.37
FL057	68.02	63.48
FL060	88.85	82.93
FL062	86.78	80.99
FL063	77.98	72.78
FL066	117.76	109.92
FL068	117.76	109.92
FL069	70.56	65.85
FL070	77.98	72.78
FL071	72.23	67.41
FL072	87	81.2
FL073	77.24	72.08
FL075	86.78	80.99
FL079	110.26	102.91
FL080	91.96	85.82
FL081	110.26	102.91
FL083	91.96	85.82
FL092	71.12	66.37
FL093	90.64	84.59
FL102	70.56	65.85
FL104	86.78	80.99
FL105	95.24	88.89
FL106	90.64	84.59
FL110	70.56	65.85
FL113	87	81.2
FL116	110.26	102.91
FL119	91.96	85.82
FL123	85.82	80.1
FL128	91.24	85.16
FL132	92.11	85.99
FL136	110.26	102.91
FL137	86.78	80.99
FL139	72.23	67.41
FL141	94.94	88.61
FL144	116.94	109.17
FL145	117.76	109.92
FL147	70.56	65.85
FL201	90.64	84.59
FL202	68.02	63.48
FL881	117.76	109.92
FL888	86.78	80.99
GA001	77.35	72.2
GA002	77.35	72.2
GA004	77.35	72.2
GA006	94.31	88.01
GA007	77.35	72.2
GA009	77.35	72.2
GA010	94.31	88.01
GA011	94.31	88.01
GA023	77.35	72.2
GA062	73.39	68.5
GA078	94.31	88.01
GA095	94.31	88.01
GA116	94.31	88.01
GA188	94.31	88.01
GA228	94.31	88.01
GA232	94.31	88.01
GA237	94.31	88.01
GA264	94.31	88.01
GA269	94.31	88.01
GA285	77.35	72.2
GA901	94.31	88.01
GQ901	130.69	121.99
HI002	126.97	118.51
HI003	143.53	133.97
HI004	143.54	133.98
HI005	143.01	133.49
HI901	143.53	133.97
IA002	73.72	68.81
IA004	77.51	72.34
IA015	73.72	68.81
IA018	78.82	73.57
IA020	88.65	82.74
IA022	90.35	84.34
IA023	77.55	72.38
IA024	85.82	80.1
IA030	73.72	68.81
IA038	86.15	80.41
IA042	73.72	68.81
IA045	83.03	77.5
IA047	73.72	68.81
IA049	73.72	68.81
IA050	86.15	80.41
IA056	73.72	68.81
IA057	73.72	68.81
IA084	73.72	68.81
IA087	79.42	74.13
IA098	77.67	72.5
IA100	73.72	68.81
IA107	73.72	68.81
IA108	73.72	68.81
IA113	86.15	80.41
IA114	73.72	68.81
IA117	77.55	72.38
IA119	73.72	68.81
IA120	88.65	82.74
IA122	73.72	68.81
IA124	73.72	68.81
IA125	73.72	68.81
IA126	83.03	77.5
IA127	73.72	68.81
IA128	73.72	68.81
IA129	73.72	68.81
IA130	73.72	68.81
IA131	88.65	82.74
IA132	86.15	80.41
ID005	78.27	73.05
ID013	97.26	90.78
ID016	97.26	90.78
ID021	97.26	90.78
ID901	81.02	75.61
IL002	109.93	102.59
IL003	86.81	81.02
IL004	79.11	73.83
IL006	77.47	72.32
IL009	83.03	77.5
IL010	83.03	77.5
IL011	70.3	65.62
IL012	74.85	69.86
IL014	82	76.53
IL015	74.01	69.07
IL016	68.54	63.97
IL018	83.03	77.5
IL020	83.03	77.5
IL022	78.94	73.68
IL024	109.93	102.59
IL025	109.93	102.59
IL026	109.93	102.59
IL028	79.11	73.88
IL030	74.01	69.07
IL032	82	76.53
IL035	82	76.53
IL037	68.54	63.97
IL038	68.54	63.97
IL039	75	70.01
IL040	68.54	63.97
IL043	68.54	63.97
IL050	70.3	65.62
IL051	77.2	72.07
IL052	68.54	63.97
IL053	70.3	65.62
IL056	109.93	102.59
IL057	68.54	63.97
IL059	68.54	63.97
IL061	69.36	64.72
IL074	74.01	69.07
IL076	68.54	63.97
IL079	68.54	63.97
IL082	68.54	63.97
IL083	78.94	73.68
IL084	74.52	69.55
IL085	69.97	65.32
IL086	72.71	67.86
IL087	68.54	63.97
IL088	68.54	63.97
IL089	87.12	81.31
IL090	109.93	102.59
IL091	68.54	63.97
IL092	109.93	102.59
IL095	80.4	75.04
IL096	68.54	63.97
IL101	109.93	102.59
IL103	109.93	102.59
IL104	86.81	81.02
IL107	109.93	102.59
IL116	109.93	102.59
IL117	77.2	72.07
IL120	68.54	63.97
IL122	78.94	73.68
IL123	68.54	63.97
IL124	86.81	81.02
IL126	70.3	65.62
IL130	109.93	102.59
IL131	83.03	77.5
IL136	109.93	102.59
IL137	110.88	103.47
IL901	109.93	102.59
IN002	59.6	55.63
IN003	66.19	61.79
IN004	61.66	57.55

PHA	A rate	B rate
IN005	61.66	57.55
IN006	73.18	68.3
IN007	64.39	60.1
IN009	59.6	55.63
IN010	80.81	75.43
IN011	80.81	75.43
IN012	67.87	63.34
IN015	65.15	60.81
IN016	63.98	59.71
IN017	73.18	68.3
IN018	59.6	55.63
IN019	63.83	59.56
IN020	65.15	60.81
IN021	61.66	57.55
IN022	65.6	61.23
IN023	67.87	63.34
IN025	67.87	63.34
IN026	63.96	59.7
IN029	80.81	75.43
IN031	59.6	55.63
IN032	60.67	56.63
IN035	61.66	57.55
IN037	63.98	59.71
IN041	59.6	55.63
IN043	59.6	55.63
IN047	59.6	55.63
IN048	59.93	55.93
IN050	59.6	55.63
IN055	60.67	56.63
IN056	62.39	58.23
IN058	66.79	62.35
IN060	63.96	59.7
IN062	63.98	59.73
IN067	59.6	55.63
IN071	70.69	65.96
IN078	62.39	58.23
IN079	73.18	68.3
IN080	73.18	68.3
IN086	59.6	55.63
IN091	59.6	55.63
IN092	59.6	55.63
IN094	61.81	57.68
IN100	65.15	60.81
IN901	73.18	68.3
KS001	71.95	67.14
KS002	68.59	64.02
KS004	73.9	68.96
KS006	64.87	60.54
KS017	64.87	60.54
KS038	64.87	60.54
KS041	64.87	60.54
KS043	71.95	67.14
KS053	75.8	70.74
KS062	64.87	60.54
KS063	65.12	60.77
KS068	71.95	67.14
KS073	73.9	68.96
KS091	64.87	60.54
KS149	64.87	60.54
KS159	71.95	67.14
KS161	64.87	60.54
KS162	71.95	67.14
KS165	64.87	60.54
KS166	64.87	60.54
KS167	65.12	60.77
KS168	68.59	64.02
KS170	64.87	60.54
KY001	67.87	63.34
KY003	60.89	56.83
KY004	75.16	70.15
KY007	59.78	55.79
KY008	59.78	55.79
KY009	67.87	63.34
KY011	74.53	69.56
KY012	63.98	59.71
KY015	77.99	72.78
KY017	59.78	55.79
KY021	59.78	55.79
KY022	59.78	55.79
KY026	59.78	55.79
KY027	59.78	55.79
KY035	59.78	55.79
KY040	59.78	55.79
KY047	59.78	55.79
KY053	59.78	55.79
KY056	59.78	55.79
KY061	75.16	70.15
KY071	66.45	62.02
KY086	59.78	55.79
KY107	59.78	55.79
KY121	59.78	55.79
KY132	66.2	61.79
KY133	77.99	72.78
KY135	77.99	72.78
KY136	77.99	72.78
KY137	59.78	55.79
KY138	59.78	55.79
KY140	75.16	70.15
KY141	59.78	55.79
KY142	70.66	65.95
KY157	59.78	55.79
KY160	59.78	55.79
KY161	70.66	65.95
KY163	59.78	55.79
KY169	59.78	55.79
KY171	67.87	63.34
KY901	75.16	70.15
LA001	79.45	74.14
LA002	77.77	72.6
LA003	85.78	80.07
LA004	74.24	69.29
LA005	74.24	69.29
LA006	74.24	69.29
LA009	85.78	80.07
LA012	79.45	74.14
LA013	79.45	74.14
LA023	74.24	69.29
LA024	73.03	68.16
LA029	74.24	69.29
LA031	73.03	68.16
LA032	74.24	69.29
LA033	73.03	68.16
LA036	73.03	68.16
LA037	78.6	73.37
LA046	74.24	69.29
LA057	74.24	69.29
LA063	74.24	69.29
LA067	73.03	68.16
LA074	73.03	68.16
LA086	73.03	68.16
LA094	79.45	74.14
LA097	73.03	68.16
LA101	85.78	80.07
LA103	79.45	74.14
LA104	74.24	69.29
LA111	73.03	68.16
LA114	73.03	68.16
LA115	73.03	68.16
LA120	74.24	69.29
LA122	74.24	69.29
LA125	73.03	68.16
LA128	73.03	68.16
LA129	74.24	69.29
LA132	73.03	68.16
LA159	73.03	68.16
LA163	73.03	68.16
LA165	74.24	69.29
LA166	73.03	68.16
LA169	73.03	68.16
LA171	74.24	69.29
LA172	74.24	69.29
LA173	74.24	69.29
LA174	74.24	69.29
LA178	74.24	69.29
LA181	79.45	74.14
LA182	73.03	68.16
LA184	77.77	72.6
LA186	74.24	69.29
LA187	79.45	74.14
LA188	73.03	68.16
LA189	74.24	69.29
LA190	77.77	72.6
LA192	73.03	68.16
LA194	76.07	71.01
LA195	73.03	68.16
LA196	74.24	69.29
LA199	85.78	80.07
LA202	85.78	80.07
LA204	85.78	80.07
LA205	85.78	80.07
LA206	74.24	69.29
LA207	74.24	69.29
LA211	76.07	71.01
LA212	73.03	68.16
LA213	78.6	73.37
LA214	74.24	69.29
LA215	73.64	68.73
LA220	73.03	68.16
LA222	73.03	68.16
LA229	73.03	68.16
LA230	77.77	72.6
LA232	73.03	68.16
LA233	73.03	68.16
LA238	79.45	74.14
LA241	73.03	68.16
LA242	73.03	68.16
LA246	73.03	68.16
LA247	73.03	68.16
LA248	73.03	68.16
LA253	76.07	71.01
LA257	73.03	68.16
LA258	73.64	68.73
LA266	74.24	69.29
LA888	77.77	72.6
LA889	79.45	74.14
LA903	79.45	74.14
MA001	134.83	125.85
MA002	145.73	136.01
MA003	145.73	136.01
MA005	134.83	125.85
MA006	130.42	121.74
MA007	134.83	125.85
MA008	134.83	125.85
MA010	134.83	125.85
MA012	134.83	125.85
MA013	145.73	136.01
MA014	145.73	136.01
MA015	145.73	136.01
MA016	145.73	136.01
MA017	145.73	136.01
MA018	130.42	121.74
MA019	145.73	136.01
MA020	145.73	136.01
MA022	145.73	136.01
MA023	145.73	136.01
MA024	134.83	125.85
MA025	145.73	136.01
MA026	134.83	125.85
MA027	145.73	136.01
MA028	145.73	136.01
MA029	134.83	125.85
MA031	145.73	136.01

PHA	A rate	B rate
MA032	145.73	136.01
MA033	145.73	136.01
MA034	134.83	125.85
MA035	134.83	125.85
MA036	145.73	136.01
MA037	134.83	125.85
MA039	134.83	125.85
MA040	145.73	136.01
MA041	134.83	125.85
MA042	145.73	136.01
MA043	134.83	125.85
MA044	145.73	136.01
MA045	145.73	136.01
MA046	146.07	136.34
MA047	146.07	136.34
MA048	145.73	136.01
MA050	134.83	125.85
MA051	134.83	125.85
MA053	145.73	136.01
MA054	145.73	136.01
MA055	145.73	136.01
MA056	145.73	136.01
MA057	145.73	136.01
MA059	145.73	136.01
MA060	134.83	125.85
MA061	145.73	136.01
MA063	145.73	136.01
MA065	145.73	136.01
MA066	134.83	125.85
MA067	145.73	136.01
MA069	145.73	136.01
MA070	145.73	136.01
MA072	145.73	136.01
MA073	145.73	136.01
MA074	145.73	136.01
MA075	145.73	136.01
MA076	134.83	125.85
MA077	134.83	125.85
MA078	134.83	125.85
MA079	145.73	136.01
MA080	134.83	125.85
MA081	134.83	125.85
MA082	134.83	125.85
MA084	134.83	125.85
MA085	134.83	125.85
MA086	134.83	125.85
MA087	134.83	125.85
MA088	134.83	125.85
MA089	145.73	136.01
MA091	145.73	136.01
MA092	145.73	136.01
MA093	145.73	136.01
MA094	133.24	124.37
MA095	146.07	136.34
MA096	133.24	124.37
MA098	145.73	136.01
MA099	145.73	136.01
MA100	134.83	125.85
MA101	145.73	136.01
MA105	134.83	125.85
MA106	134.83	125.85
MA107	134.83	125.85
MA108	134.83	125.85
MA109	145.73	136.01
MA110	146.07	136.34
MA111	145.73	136.01
MA112	145.73	136.01
MA116	145.73	136.01
MA117	145.73	136.01
MA118	145.73	136.01
MA119	145.73	136.01
MA121	145.73	136.01
MA122	145.73	136.01
MA123	134.83	125.85
MA125	145.73	136.01
MA127	134.83	125.85
MA133	145.73	136.01
MA134	145.73	136.01
MA135	145.73	136.01
MA138	146.07	136.34
MA139	134.83	125.85
MA140	145.73	136.01
MA147	145.73	136.01
MA154	145.73	136.01
MA155	145.73	136.01
MA165	145.73	136.01
MA170	145.73	136.01
MA172	134.83	125.85
MA174	145.73	136.01
MA180	146.07	136.34
MA181	146.07	136.34
MA188	134.83	125.85
MA880	145.73	136.01
MA881	145.73	136.01
MA882	134.83	125.85
MA883	145.73	136.01
MA901	145.73	136.01
MD001	97.5	90.99
MD002	97.5	90.99
MD003	128.94	120.35
MD004	128.94	120.35
MD006	76.48	71.37
MD007	128.94	120.35
MD014	87.62	81.78
MD015	128.94	120.35
MD016	102.13	95.32
MD018	97.5	90.99
MD019	86.29	80.52
MD021	110.59	103.22
MD022	128.94	120.35
MD023	97.5	90.99
MD024	128.94	120.35
MD025	97.5	90.99
MD027	97.5	90.99
MD028	76.48	71.37
MD029	102.13	95.32
MD032	97.5	90.99
MD033	97.5	90.99
MD034	97.5	90.99
MD901	73.5	68.6
ME001	75.47	70.44
ME002	75.47	70.44
ME003	118.76	110.85
ME004	75.47	70.44
ME005	84.99	79.31
ME006	90.81	84.75
ME007	84.99	79.31
ME008	79.35	74.05
ME009	86.26	80.52
ME011	104.48	97.51
ME015	118.76	110.85
ME018	86.26	80.52
ME019	95.19	88.82
ME020	118.76	110.85
ME021	86.26	80.52
ME025	75.47	70.44
ME027	77.47	72.32
ME028	104.48	97.51
ME030	79.35	74.05
ME901	74.09	69.14
MI001	73.56	68.66
MI005	73.56	68.66
MI006	62.9	58.71
MI008	73.56	68.66
MI009	63.32	59.09
MI010	64.12	59.85
MI019	61.65	57.54
MI020	61.65	57.54
MI027	73.56	68.66
MI030	61.65	57.54
MI031	69.44	64.81
MI032	64.12	59.85
MI035	66.3	61.89
MI036	61.65	57.54
MI037	73.56	68.66
MI038	63.58	59.35
MI039	73.56	68.66
MI040	73.56	68.66
MI044	73.56	68.66
MI045	73.56	68.66
MI047	61.65	57.54
MI048	73.56	68.66
MI049	61.65	57.54
MI050	61.65	57.54
MI051	73.56	68.66
MI052	73.56	68.66
MI055	73.56	68.66
MI058	70.53	65.83
MI059	73.56	68.66
MI060	66.12	61.7
MI061	66.54	62.11
MI063	61.65	57.54
MI064	87.65	81.8
MI066	69.44	64.81
MI070	66.12	61.7
MI073	69.44	64.81
MI074	66.54	62.11
MI080	68.42	63.87
MI084	66.12	61.7
MI087	66.12	61.7
MI089	73.56	68.66
MI093	69.44	64.81
MI094	61.65	57.54
MI096	73.56	68.66
MI097	73.56	68.66
MI100	73.56	68.66
MI112	61.65	57.54
MI115	69.44	64.81
MI117	61.65	57.54
MI119	61.65	57.54
MI120	64.12	59.85
MI121	66.54	62.11
MI132	61.65	57.54
MI139	73.56	68.66
MI157	73.56	68.66
MI167	70.53	65.83
MI168	70.53	65.83
MI186	61.65	57.54
MI194	70.53	65.83
MI198	69.44	64.81
MI880	70.53	65.83
MI901	73.56	68.66
MN001	103.31	96.43
MN002	103.31	96.43
MN003	76.42	71.32
MN007	76.42	71.32
MN008	70.89	66.16
MN009	70.89	66.16
MN018	70.89	66.16
MN021	85.58	79.87
MN032	70.89	66.16
MN034	70.89	66.16
MN037	70.89	66.16
MN038	78.71	73.47
MN049	70.89	66.16
MN063	76.75	71.63
MN073	76.42	71.32
MN077	77.33	72.19
MN085	70.89	66.16
MN090	70.89	66.16
MN101	103.31	96.43
MN107	70.89	66.16

PHA	A rate	B rate
MN128	70.89	66.16
MN144	103.31	96.43
MN147	103.31	96.43
MN151	85.54	79.85
MN152	103.31	96.43
MN153	70.89	66.16
MN154	70.89	66.16
MN158	85.58	79.87
MN161	74.38	69.41
MN163	103.31	96.43
MN164	85.58	79.87
MN166	70.89	66.16
MN167	76.75	71.63
MN168	74.38	69.41
MN169	70.89	66.16
MN170	103.31	96.43
MN171	72.75	67.89
MN172	78.71	73.47
MN173	70.89	66.16
MN174	70.89	66.16
MN176	70.89	66.16
MN177	70.89	66.16
MN178	74.38	69.41
MN179	70.89	66.16
MN180	70.89	66.16
MN182	70.89	66.16
MN184	103.31	96.43
MN188	70.89	66.16
MN190	70.89	66.16
MN191	70.89	66.16
MN192	70.89	66.16
MN193	79.65	74.35
MN197	71.88	67.09
MN200	70.89	66.16
MN203	74.38	69.41
MN212	103.31	96.43
MN216	103.31	96.43
MN219	76.75	71.63
MN220	77.33	72.19
MN801	103.31	96.43
MN802	103.31	96.43
MO001	74.01	69.07
MO002	71.95	67.14
MO003	70.95	66.22
MO004	74.01	69.07
MO006	74.01	69.07
MO007	70.95	66.22
MO008	70.83	66.11
MO009	70.95	66.22
MO010	70.83	66.11
MO014	70.95	66.22
MO016	70.83	66.11
MO017	71.95	67.14
MO030	71.95	67.14
MO037	70.83	66.11
MO040	70.83	66.11
MO053	71.95	67.14
MO058	70.95	66.22
MO064	70.83	66.11
MO065	70.83	66.11
MO072	70.83	66.11
MO074	70.83	66.11
MO107	70.83	66.11
MO129	70.83	66.11
MO133	70.83	66.11
MO145	70.83	66.11
MO149	70.83	66.11
MO188	70.95	66.22
MO190	70.83	66.11
MO193	71.95	67.14
MO196	71.95	67.14
MO197	71.95	67.14
MO198	70.95	66.22
MO199	74.01	69.07
MO200	70.83	66.11
MO203	70.95	66.22
MO204	71.95	67.14
MO205	74.01	69.07
MO206	70.83	66.11
MO207	70.83	66.11
MO209	70.83	66.11
MO210	71.95	67.14
MO212	70.83	66.11
MO213	71.95	67.14
MO215	70.95	66.22
MO216	70.95	66.22
MO217	70.83	66.11
MO227	74.01	69.07
MS004	68.65	64.07
MS005	72.09	67.29
MS006	68.65	64.07
MS016	73.58	68.67
MS019	68.65	64.07
MS030	68.65	64.07
MS040	72.09	67.29
MS057	68.65	64.07
MS058	85.08	79.39
MS095	68.65	64.07
MS103	85.08	79.39
MS107	68.65	64.07
MS128	68.65	64.07
MS301	72.09	67.29
MT001	98.46	91.9
MT002	87.17	81.37
MT003	82.22	76.73
MT004	95.6	89.23
MT006	77.45	72.3
MT015	83.92	78.31
MT033	88.63	82.71
MT036	83.92	78.31
MT901	98.46	91.9
NC001	74.23	69.28
NC002	88.68	82.76
NC003	81.33	75.9
NC004	69.64	65
NC006	76.82	71.71
NC007	74.23	69.28
NC008	81.33	75.9
NC009	75.46	70.42
NC011	76.82	71.71
NC012	76.82	71.71
NC013	88.68	82.76
NC014	69.64	65
NC015	74.23	69.28
NC018	69.64	65
NC019	74.23	69.28
NC020	69.64	65
NC021	88.68	82.76
NC022	74.23	69.28
NC025	69.64	65
NC032	69.64	65
NC035	70.29	65.61
NC039	73.08	68.22
NC050	73.92	68.99
NC056	78.21	73.01
NC057	81.33	75.9
NC059	76.82	71.71
NC065	81.33	75.9
NC070	77.37	72.2
NC071	73.08	68.22
NC072	77.04	71.91
NC075	69.64	65
NC077	69.64	65
NC081	76.82	71.71
NC087	74.23	69.28
NC089	69.64	65
NC098	74.23	69.28
NC102	77.37	72.2
NC104	88.68	82.76
NC118	69.64	65
NC120	88.68	82.76
NC134	77.37	72.2
NC137	74.23	69.28
NC138	69.64	65
NC139	69.64	65
NC140	74.23	69.28
NC141	69.64	65
NC144	74.23	69.28
NC145	69.64	65
NC146	69.64	65
NC147	74.23	69.28
NC149	69.64	65
NC150	69.64	65
NC151	70.75	66.04
NC152	74.23	69.28
NC155	69.64	65
NC159	78.21	73.01
NC160	69.64	65
NC161	69.64	65
NC163	73.21	68.33
NC164	88.68	82.76
NC165	69.64	65
NC166	76.82	71.71
NC167	70.95	66.22
NC173	74.23	69.28
NC175	74.23	69.28
NC901	69.64	65
ND001	85.58	79.87
ND002	84.36	78.74
ND003	84.36	78.74
ND009	84.36	78.74
ND010	85.58	79.87
ND011	84.36	78.74
ND012	85.58	79.87
ND013	84.36	78.74
ND014	85.58	79.87
ND015	84.36	78.74
ND016	84.36	78.74
ND017	84.36	78.74
ND019	84.36	78.74
ND021	85.58	79.87
ND022	84.36	78.74
ND025	84.36	78.74
ND026	84.36	78.74
ND030	84.36	78.74
ND031	84.36	78.74
ND035	84.36	78.74
ND036	84.36	78.74
ND037	84.36	78.74
ND038	84.36	78.74
ND039	84.36	78.74
ND044	84.36	78.74
ND049	84.36	78.74
ND052	84.36	78.74
ND054	84.36	78.74
ND055	84.36	78.74
ND070	84.36	78.74
ND901	85.58	79.87
NE001	77.55	72.38
NE002	77.55	72.38
NE003	77.55	72.38
NE004	77.55	72.38
NE010	77.55	72.38
NE041	77.55	72.38
NE078	77.55	72.38
NE083	77.55	72.38
NE094	77.55	72.38
NE100	77.55	72.38
NE104	77.55	72.38
NE114	77.55	72.38
NE120	77.55	72.38
NE123	77.55	72.38

PHA	A rate	B rate
NE141	77.55	72.38
NE150	77.55	72.38
NE153	77.55	72.38
NE157	77.55	72.38
NE174	77.55	72.38
NE175	78.82	73.57
NE179	77.55	72.38
NE181	77.55	72.38
NE182	77.55	72.38
NH001	106.21	99.12
NH002	112.84	105.31
NH003	109.98	102.66
NH004	109.98	102.66
NH005	121.07	112.98
NH006	109.98	102.66
NH007	95.36	89
NH008	109.98	102.66
NH009	98.44	91.87
NH010	113.14	105.59
NH011	86.78	81.01
NH012	92.45	86.28
NH013	109.98	102.66
NH014	109.98	102.66
NH015	86.78	81.01
NH016	86.78	81.01
NH022	134.83	125.85
NH888	112.84	105.31
NH901	106.21	99.12
NJ002	121.98	113.82
NJ003	121.98	113.82
NJ004	104.11	97.17
NJ006	124.91	116.6
NJ007	122.29	114.13
NJ008	122.29	114.13
NJ009	104.11	97.17
NJ010	102.13	95.32
NJ011	124.91	116.6
NJ012	104.11	97.17
NJ013	124.91	116.6
NJ014	103.14	96.28
NJ015	104.11	97.17
NJ021	124.91	116.6
NJ022	124.91	116.6
NJ023	121.98	113.82
NJ025	121.98	113.82
NJ026	104.11	97.17
NJ030	104.11	97.17
NJ032	121.98	113.82
NJ033	124.91	116.6
NJ035	124.91	116.6
NJ036	104.11	97.17
NJ037	121.98	113.82
NJ039	121.98	113.82
NJ042	124.91	116.6
NJ043	124.91	116.6
NJ044	124.91	116.6
NJ046	122.29	114.13
NJ047	124.91	116.6
NJ048	122.29	114.13
NJ049	99.16	92.55
NJ050	121.98	113.82
NJ051	102.13	95.32
NJ052	121.98	113.82
NJ054	122.29	114.13
NJ055	124.91	116.6
NJ056	122.29	114.13
NJ058	102.13	95.32
NJ059	103.14	96.28
NJ060	122.29	114.13
NJ061	99.16	92.55
NJ063	99.16	92.55
NJ065	122.29	114.13
NJ066	121.98	113.82
NJ067	124.91	116.6
NJ068	121.98	113.82
NJ070	124.91	116.6
NJ071	124.91	116.6
NJ073	102.13	95.32
NJ074	102.13	95.32
NJ075	124.91	116.6
NJ077	104.11	97.17
NJ081	122.29	114.13
NJ083	104.11	97.17
NJ084	124.91	116.6
NJ086	121.98	113.82
NJ088	121.98	113.82
NJ089	124.91	116.6
NJ090	124.91	116.6
NJ092	121.98	113.82
NJ095	122.29	114.13
NJ097	124.91	116.6
NJ099	121.98	113.82
NJ102	121.98	113.82
NJ105	121.98	113.82
NJ106	124.91	116.6
NJ108	121.98	113.82
NJ109	121.98	113.82
NJ110	124.91	116.6
NJ112	124.91	116.6
NJ113	121.98	113.82
NJ114	124.91	116.6
NJ118	102.13	95.32
NJ204	102.13	95.32
NJ212	119.84	111.85
NJ214	122.29	114.13
NJ880	122.29	114.13
NJ881	124.91	116.6
NJ882	121.98	113.82
NJ912	121.98	113.82
NM001	92.68	86.5
NM002	71.36	66.6
NM003	73.55	68.65
NM006	92.21	86.05
NM009	109.67	102.35
NM020	72.2	67.38
NM039	71.36	66.6
NM050	109.67	102.35
NM057	92.68	86.5
NM061	71.36	66.6
NM063	72.2	67.38
NM066	91.2	85.11
NM067	71.36	66.6
NM077	92.68	86.5
NM088	76.09	71.03
NV001	93.41	87.18
NV018	102.74	95.9
NV905	93.41	87.18
NY001	89.19	83.26
NY002	83.37	77.83
NY003	138.85	129.6
NY005	120.7	112.64
NY006	81.66	76.23
NY009	96.93	90.47
NY012	96.93	90.47
NY015	96.93	90.47
NY016	84.58	78.94
NY017	69.93	65.27
NY018	74.13	69.19
NY019	81.66	76.23
NY020	96.93	90.47
NY021	80.74	75.35
NY022	96.93	90.47
NY023	138.85	129.6
NY025	96.93	90.47
NY027	89.19	83.26
NY028	96.93	90.47
NY033	96.93	90.47
NY034	81.66	76.23
NY035	138.85	129.6
NY038	138.85	129.6
NY041	102.05	95.24
NY042	138.85	129.6
NY044	102.05	95.24
NY045	109.17	101.89
NY048	66.33	61.91
NY049	124.06	115.79
NY050	138.85	129.6
NY051	124.06	115.79
NY054	95.34	88.99
NY057	138.85	129.6
NY059	81.66	76.23
NY060	84.96	79.3
NY061	76.57	71.47
NY062	124.06	115.79
NY065	77.57	72.41
NY066	78.18	72.97
NY067	73.99	69.05
NY068	72.49	67.65
NY070	83.37	77.83
NY071	86.68	80.9
NY077	138.85	129.6
NY079	91.77	85.66
NY084	120.7	112.64
NY085	138.85	129.6
NY086	138.85	129.6
NY087	71.29	66.53
NY088	138.85	129.6
NY089	102.05	95.24
NY091	83.37	77.83
NY094	138.85	129.6
NY098	81.66	76.23
NY102	89.19	83.26
NY103	109.17	101.89
NY107	89.19	83.26
NY109	81.66	76.23
NY110	120.7	112.64
NY113	138.85	129.6
NY114	120.7	112.64
NY117	138.85	129.6
NY121	138.85	129.6
NY123	138.85	129.6
NY125	124.06	115.79
NY127	138.85	129.6
NY128	138.85	129.6
NY130	138.85	129.6
NY132	138.85	129.6
NY134	124.06	115.79
NY137	124.06	115.79
NY138	120.7	112.64
NY141	138.85	129.6
NY146	138.85	129.6
NY147	138.85	129.6
NY148	120.7	112.64
NY149	138.85	129.6
NY152	138.85	129.6
NY154	138.85	129.6
NY158	124.06	115.79
NY159	138.85	129.6
NY160	120.7	112.64
NY165	138.85	129.6
NY402	86.14	80.38
NY403	66.03	61.63
NY404	83.37	77.83
NY405	83.37	77.83
NY406	102.05	95.24
NY408	96.93	90.47
NY409	83.37	77.83
NY413	84.96	79.3
NY416	96.93	90.47
NY417	81.66	76.23
NY421	96.93	90.47
NY422	96.93	90.47

PHA	A rate	B rate
NY424	96.93	90.47
NY427	96.93	90.47
NY428	96.93	90.47
NY430	96.93	90.47
NY431	96.93	90.47
NY433	66.33	61.91
NY443	81.66	76.23
NY447	96.93	90.47
NY449	83.37	77.83
NY501	96.93	90.47
NY503	96.93	90.47
NY504	89.19	83.26
NY505	84.58	78.94
NY512	96.93	90.47
NY513	96.93	90.47
NY516	96.93	90.47
NY519	96.93	90.47
NY521	89.19	83.26
NY527	89.19	83.26
NY529	109.17	101.89
NY530	84.96	79.3
NY532	96.93	90.47
NY534	81.66	76.23
NY535	96.93	90.47
NY538	96.93	90.47
NY541	72.49	67.65
NY552	81.66	76.23
NY557	96.93	90.47
NY561	96.93	90.47
NY562	96.93	90.47
NY564	96.93	90.47
NY630	96.93	90.47
NY888	138.85	129.6
NY889	69.93	65.27
NY891	138.85	129.6
NY895	138.85	129.6
NY904	120.7	112.64
NY912	83.37	77.83
OH001	76.4	71.29
OH002	69.38	64.74
OH003	80.54	75.16
OH004	77.99	72.78
OH005	71.14	66.4
OH006	80.05	74.72
OH007	79.22	73.95
OH008	69.38	64.74
OH009	66.48	62.05
OH010	66.48	62.05
OH012	80.54	75.16
OH014	69.85	65.19
OH015	77.99	72.78
OH016	68.25	63.7
OH018	68.25	63.7
OH019	70.66	65.95
OH020	69.13	64.53
OH021	71.14	66.4
OH022	71.14	66.4
OH024	66.48	62.05
OH025	80.54	75.16
OH026	67.58	63.06
OH027	80.54	75.16
OH028	70.79	66.07
OH029	78.45	73.21
OH030	66.48	62.05
OH031	79.22	73.95
OH032	66.97	62.51
OH033	66.48	62.05
OH034	66.97	62.51
OH035	66.48	62.05
OH036	66.79	62.34
OH037	66.48	62.05
OH038	77.99	72.78
OH039	66.48	62.05
OH040	66.48	62.05
OH041	66.48	62.05
OH042	80.54	75.16
OH043	76.4	71.29
OH044	69.38	64.74
OH045	66.48	62.05
OH046	66.48	62.05
OH047	66.48	62.05
OH049	77.99	72.78
OH050	66.48	62.05
OH053	66.48	62.05
OH054	69.28	64.66
OH056	66.48	62.05
OH058	66.48	62.05
OH059	76.4	71.29
OH060	66.48	62.05
OH061	68.01	63.48
OH062	71.14	66.4
OH063	66.48	62.05
OH066	66.48	62.05
OH067	66.48	62.05
OH069	66.48	62.05
OH070	76.4	71.29
OH071	80.05	74.72
OH072	66.48	62.05
OH073	80.54	75.16
OH074	68.34	63.79
OH075	66.48	62.05
OH076	66.48	62.05
OH077	66.48	62.05
OH078	66.48	62.05
OH079	76.4	71.29
OH080	68.1	63.55
OH081	68.25	63.7
OH082	66.65	62.19
OH083	76.4	71.29
OH085	80.05	74.72
OH086	66.48	62.05
OH882	80.54	75.16
OK002	74.78	69.79
OK005	72.74	67.89
OK006	71.76	66.98
OK024	71.76	66.98
OK027	71.76	66.98
OK032	71.76	66.98
OK033	72.74	67.89
OK044	71.76	66.98
OK062	71.76	66.98
OK067	71.76	66.98
OK073	72.74	67.89
OK095	73.77	68.86
OK096	71.76	66.98
OK099	71.76	66.98
OK111	71.76	66.98
OK118	71.76	66.98
OK139	74.78	69.79
OK142	72.74	67.89
OK146	71.76	66.98
OK148	73.77	68.86
OK901	74.78	69.79
OR001	98.3	91.73
OR002	98.3	91.73
OR003	97.94	91.42
OR005	91.15	85.08
OR006	112.96	105.43
OR007	93.7	87.46
OR008	105.53	98.49
OR011	105.53	98.49
OR014	105.53	98.49
OR015	112.22	104.74
OR016	98.3	91.73
OR017	89.45	83.5
OR019	99.78	93.12
OR020	97.94	91.42
OR022	98.3	91.73
OR026	99.14	92.53
OR027	89.45	83.5
OR028	98.3	91.73
OR031	102.24	95.44
OR032	93.7	87.46
OR034	108.5	101.27
PA001	71.28	66.52
PA002	102.13	95.32
PA003	69.1	64.49
PA004	86.98	81.17
PA005	71.28	66.52
PA006	71.28	66.52
PA007	102.13	95.32
PA008	89.02	83.08
PA009	84.82	79.16
PA010	71.28	66.52
PA011	86.98	81.17
PA012	102.13	95.32
PA013	86.53	80.76
PA014	71.28	66.52
PA015	71.28	66.52
PA016	77.36	72.2
PA017	71.28	66.52
PA018	71.28	66.52
PA019	73.14	68.27
PA020	80.3	74.95
PA021	73.14	68.27
PA022	81.71	76.26
PA023	102.13	95.32
PA024	86.98	81.17
PA026	71.03	66.28
PA027	67.32	62.82
PA028	92.76	86.59
PA029	72.72	67.87
PA030	69.1	64.49
PA031	75.32	70.3
PA032	72.69	67.84
PA033	71.03	66.28
PA034	77.72	72.52
PA035	89.02	83.08
PA036	90.41	84.39
PA037	77.36	72.2
PA038	69.1	64.49
PA039	83.73	78.14
PA040	69.48	64.84
PA041	70.86	66.14
PA042	69.1	64.49
PA043	69.1	64.49
PA044	69.1	64.49
PA045	71.65	66.86
PA046	102.13	95.32
PA047	69.1	64.49
PA048	83.24	77.69
PA050	69.15	64.55
PA051	102.13	95.32
PA052	89.02	83.08
PA053	71.65	66.86
PA054	70.1	65.42
PA055	71.65	66.86
PA056	68.55	63.97
PA057	69.1	64.49
PA058	71.03	66.28
PA059	68.55	63.97
PA060	71.65	66.86
PA061	71.65	66.86
PA063	71.65	66.86
PA064	69.15	64.55
PA065	71.65	66.86
PA067	86.98	81.17
PA068	69.15	64.55
PA069	75.32	70.3
PA071	84.82	79.16
PA073	69.1	64.49
PA074	69.15	64.55

PHA	A rate	B rate
PA075	89.02	83.08
PA076	86.98	81.17
PA077	70.1	65.42
PA078	112.75	105.24
PA079	71.03	66.28
PA080	70.1	65.42
PA081	86.98	81.17
PA082	81.08	75.67
PA083	69.7	65.05
PA085	67.32	62.82
PA086	68.55	63.97
PA087	86.53	80.76
PA088	96.96	90.49
PA090	90.41	84.39
PA091	82.43	76.92
PA092	69.32	64.7
RI001	130.42	121.74
RI002	130.42	121.74
RI003	130.42	121.74
RI004	130.42	121.74
RI005	121.82	113.69
RI006	130.42	121.74
RI007	130.42	121.74
RI008	110.88	103.49
RI009	130.42	121.74
RI010	130.42	121.74
RI011	130.42	121.74
RI012	130.42	121.74
RI014	130.42	121.74
RI015	130.42	121.74
RI016	130.42	121.74
RI017	130.42	121.74
RI018	130.42	121.74
RI019	130.42	121.74
RI020	130.42	121.74
RI022	130.42	121.74
RI024	130.42	121.74
RI026	130.42	121.74
RI027	130.42	121.74
RI028	130.42	121.74
RI029	130.42	121.74
RI901	130.42	121.74
RQ005	82.5	77
RQ006	82.5	77
RQ007	76.76	71.64
RQ008	82.5	77
RQ009	76.76	71.64
RQ010	76.76	71.64
RQ011	82.5	77
RQ012	76.76	71.64
RQ013	82.5	77
RQ014	82.5	77
RQ015	82.5	77
RQ016	82.5	77
RQ017	76.76	71.64
RQ018	76.76	71.64
RQ019	82.5	77
RQ020	84.29	78.67
RQ021	82.5	77
RQ022	82.5	77
RQ023	82.5	77
RQ024	82.5	77
RQ025	82.5	77
RQ026	76.76	71.64
RQ027	82.5	77
RQ028	82.5	77
RQ029	76.76	71.64
RQ030	76.76	71.64
RQ031	84.29	78.67
RQ032	82.5	77
RQ033	76.76	71.64
RQ034	82.5	77
RQ035	76.76	71.64
RQ036	82.5	77
RQ037	76.76	71.64
RQ038	82.5	77
RQ039	84.29	78.67
RQ040	84.29	78.67
RQ041	76.76	71.64
RQ042	76.76	71.64
RQ043	76.76	71.64
RQ044	82.5	77
RQ045	82.5	77
RQ046	76.76	71.64
RQ047	82.5	77
RQ048	76.76	71.64
RQ049	82.5	77
RQ050	82.5	77
RQ052	76.76	71.64
RQ053	82.5	77
RQ054	82.5	77
RQ055	82.5	77
RQ056	82.5	77
RQ057	76.76	71.64
RQ058	76.76	71.64
RQ059	76.76	71.64
RQ060	76.76	71.64
RQ061	76.76	71.64
RQ062	76.76	71.64
RQ063	82.5	77
RQ064	82.5	77
RQ065	76.76	71.64
RQ066	76.76	71.64
RQ067	76.76	71.64
RQ068	76.76	71.64
RQ069	76.76	71.64
RQ070	82.5	77
RQ071	76.76	71.64
RQ072	82.5	77
RQ073	76.76	71.64
RQ074	76.76	71.64
RQ075	82.5	77
RQ077	82.5	77
RQ080	76.76	71.64
RQ081	82.5	77
RQ082	82.5	77
RQ083	82.5	77
SC001	79.43	74.14
SC002	80.3	74.94
SC003	73.29	68.41
SC004	73.29	68.41
SC005	73.29	68.41
SC007	77.35	72.2
SC008	73.29	68.41
SC015	70.83	66.11
SC016	73.29	68.41
SC018	73.29	68.41
SC019	73.43	68.53
SC020	73.29	68.41
SC021	70.83	66.11
SC022	81.33	75.9
SC023	73.29	68.41
SC024	79.43	74.14
SC025	73.29	68.41
SC026	74.8	69.8
SC027	73.29	68.41
SC028	70.83	66.11
SC029	73.29	68.41
SC030	70.83	66.11
SC031	70.83	66.11
SC032	73.29	68.41
SC033	70.83	66.11
SC034	73.29	68.41
SC035	70.83	66.11
SC036	81.33	75.9
SC037	73.29	68.41
SC046	81.33	75.9
SC056	79.43	74.14
SC057	79.43	74.14
SC059	70.83	66.11
SC911	80.3	74.94
SD010	78.82	73.57
SD011	78.82	73.57
SD014	78.82	73.57
SD016	78.82	73.57
SD026	78.82	73.57
SD034	78.82	73.57
SD035	85.65	79.93
SD036	78.82	73.57
SD037	78.82	73.57
SD039	78.82	73.57
SD043	78.82	73.57
SD045	78.82	73.57
SD047	78.82	73.57
SD048	78.82	73.57
SD055	78.82	73.57
SD056	78.82	73.57
SD057	78.82	73.57
SD058	78.82	73.57
SD059	78.82	73.57
TN001	73.58	68.67
TN002	68.72	64.14
TN003	68.72	64.14
TN004	74.59	69.61
TN005	81.54	76.1
TN006	68.72	64.14
TN007	68.72	64.14
TN012	68.72	64.14
TN013	68.72	64.14
TN020	81.54	76.1
TN024	68.72	64.14
TN026	68.72	64.14
TN035	81.54	76.1
TN038	68.72	64.14
TN042	68.72	64.14
TN054	68.72	64.14
TN062	68.72	64.14
TN065	68.72	64.14
TN066	68.72	64.14
TN076	68.72	64.14
TN079	81.54	76.1
TN088	68.72	64.14
TN113	68.72	64.14
TN117	74.59	69.61
TN903	81.54	76.1
TQ901	130.69	121.99
TX001	93.65	87.41
TX003	79.57	74.25
TX004	89.48	83.51
TX005	84.95	79.3
TX006	82.32	76.85
TX007	72.99	68.13
TX008	83.94	78.33
TX009	96.03	89.63
TX010	71.99	67.19
TX011	71.99	67.19
TX012	84.95	79.3
TX014	71.99	67.19
TX016	70.32	65.63
TX017	84.95	79.3
TX018	71.99	67.19
TX019	70.32	65.63
TX021	70.32	65.63
TX023	82.26	76.76
TX025	72.99	68.13
TX027	96.03	89.63
TX028	72.17	67.34
TX029	72.17	67.34
TX030	71.99	67.19
TX031	93.65	87.41
TX032	84.95	79.3
TX034	82.26	76.76

PHA	A rate	B rate
TX035	70.49	65.78
TX037	82.26	76.76
TX039	70.32	65.63
TX042	70.32	65.63
TX044	70.32	65.63
TX046	72.17	67.34
TX048	70.32	65.63
TX049	70.32	65.63
TX051	72.17	67.34
TX062	72.17	67.34
TX064	72.17	67.34
TX065	72.99	68.13
TX072	70.32	65.63
TX073	72.17	67.34
TX075	70.32	65.63
TX079	71.99	67.19
TX085	99.75	93.09
TX087	93.65	87.41
TX095	96.03	89.63
TX096	70.32	65.63
TX105	70.32	65.63
TX111	73.67	68.76
TX114	70.32	65.63
TX128	96.03	89.63
TX134	70.32	65.63
TX137	71.99	67.19
TX147	70.32	65.63
TX152	70.32	65.63
TX158	71.99	67.19
TX163	83.94	78.33
TX164	83.94	78.33
TX173	72.99	68.13
TX174	83.94	78.33
TX175	70.32	65.63
TX177	72.17	67.34
TX178	70.32	65.63
TX183	70.32	65.63
TX189	70.32	65.63
TX193	82.32	76.85
TX197	71.99	67.19
TX201	70.32	65.63
TX202	72.17	67.34
TX206	72.99	68.13
TX208	71.99	67.19
TX210	71.99	67.19
TX217	70.32	65.63
TX224	72.17	67.34
TX236	71.99	67.19
TX242	70.32	65.63
TX257	71.99	67.19
TX259	93.65	87.41
TX264	93.65	87.41
TX266	93.65	87.41
TX272	70.32	65.63
TX284	70.32	65.63
TX298	70.32	65.63
TX300	70.32	65.63
TX302	83.94	78.33
TX303	82.32	76.85
TX309	70.32	65.63
TX313	83.94	78.33
TX322	93.65	87.41
TX327	71.99	67.19
TX330	70.32	65.63
TX332	70.32	65.63
TX335	70.32	65.63
TX341	71.99	67.19
TX343	82.32	76.85
TX349	89.48	83.51
TX350	82.32	76.85
TX358	70.32	65.63
TX376	70.32	65.63
TX377	93.65	87.41
TX378	70.49	65.78
TX381	70.32	65.63
TX392	96.03	89.63
TX395	72.64	67.8
TX396	70.32	65.63
TX397	70.32	65.63
TX421	70.32	65.63
TX431	89.48	83.51
TX432	79.57	74.25
TX433	89.48	83.51
TX434	96.03	89.63
TX435	96.03	89.63
TX436	96.03	89.63
TX439	79.57	74.25
TX440	84.95	79.3
TX441	84.95	79.3
TX444	71.99	67.19
TX445	72.17	67.34
TX447	72.17	67.34
TX448	72.17	67.34
TX449	70.32	65.63
TX452	82.32	76.85
TX454	70.32	65.63
TX455	92.51	86.34
TX456	82.08	76.61
TX457	77.53	72.36
TX458	71.99	67.19
TX459	80.73	75.35
TX461	74.81	69.84
TX470	71.99	67.19
TX472	71.99	67.19
TX480	93.65	87.41
TX481	71.99	67.19
TX482	71.99	67.19
TX483	84.95	79.3
TX484	91.74	85.62
TX485	70.32	65.63
TX486	71.48	66.7
TX488	70.32	65.63
TX493	96.03	89.63
TX495	89.48	83.51
TX497	72.17	67.34
TX498	73.67	68.76
TX499	71.99	67.19
TX500	70.32	65.63
TX505	84.95	79.3
TX509	72.99	68.13
TX511	70.32	65.63
TX512	70.32	65.63
TX514	71.99	67.19
TX516	70.32	65.63
TX519	70.32	65.63
TX522	96.03	89.63
TX523	73.67	68.76
TX526	96.21	89.79
TX534	92.51	86.34
TX535	70.32	65.63
TX537	71.99	67.19
TX542	71.99	67.19
TX546	71.99	67.19
TX559	96.03	89.63
TX560	84.95	79.3
TX901	84.95	79.3
UT002	86.4	80.64
UT003	86.4	80.64
UT004	86.4	80.64
UT006	86.89	81.09
UT007	86.4	80.64
UT009	86.4	80.64
UT011	86.4	80.64
UT014	98.84	92.24
UT015	98.84	92.24
UT016	98.84	92.24
UT020	86.4	80.64
UT021	88.98	83.05
UT022	86.4	80.64
UT025	86.4	80.64
UT026	86.4	80.64
UT028	98.84	92.24
UT029	98.84	92.24
UT030	86.4	80.64
UT031	86.89	81.09
VA001	87.45	81.62
VA002	68.72	64.14
VA003	87.45	81.62
VA004	128.94	120.35
VA005	79.33	74.03
VA006	87.45	81.62
VA007	79.33	74.03
VA010	67.4	62.91
VA011	69.81	65.15
VA012	87.45	81.62
VA013	70.6	65.89
VA014	70.6	65.89
VA015	63.41	59.18
VA016	88.7	82.79
VA017	87.45	81.62
VA018	63.41	59.18
VA019	128.94	120.35
VA020	79.33	74.03
VA021	63.41	59.18
VA022	64.18	59.89
VA023	64.18	59.89
VA024	63.41	59.18
VA025	87.45	81.62
VA028	128.94	120.35
VA030	63.41	59.18
VA031	68.72	64.14
VA032	68.72	64.14
VA034	63.41	59.18
VA035	128.94	120.35
VA036	88.7	82.79
VA037	63.57	59.32
VA038	63.41	59.18
VA039	87.45	81.62
VA040	63.41	59.18
VA041	87.45	81.62
VA042	68.72	64.14
VA044	64.17	59.89
VA046	128.94	120.35
VA901	79.33	74.03
VQ901	108.74	101.5
VT001	109.99	102.65
VT002	95.34	88.99
VT003	98.62	92.05
VT004	97.64	91.13
VT005	91.41	85.32
VT006	109.99	102.65
VT008	91.41	85.32
VT009	92.4	86.24
VT901	109.99	102.65
WA001	123.37	115.12
WA002	123.37	115.12
WA003	108.97	101.7
WA004	102.31	95.48
WA005	104.76	97.79
WA006	123.37	115.12
WA007	84	78.4
WA008	98.3	91.73
WA011	123.37	115.12
WA012	95.17	88.81
WA013	94.94	88.6
WA014	78.89	73.63
WA017	78.89	73.63
WA018	102.31	95.48
WA020	84	78.4
WA021	95.17	88.81
WA024	120.21	112.17
WA025	117.12	109.3

PHA	A rate	B rate
WA036	108.97	101.7
WA039	123.37	115.12
WA042	98.95	92.35
WA049	112.58	105.06
WA054	104.76	97.79
WA055	94.77	88.46
WA057	102.88	96.02
WA061	107.08	99.94
WA064	97.44	90.93
WA071	86.46	80.69
WI001	76.42	71.32
WI002	73.99	69.06
WI003	82.35	76.86
WI006	70.89	66.16
WI011	63.17	58.95
WI020	103.31	96.43
WI031	62.14	58
WI043	62.3	58.16
WI045	62.14	58
WI047	62.14	58
WI048	62.14	58
WI060	103.31	96.43
WI064	68.65	64.08
WI065	62.3	58.16
WI068	63.17	58.95
WI069	63.17	58.95
WI070	62.14	58
WI083	73.99	69.06
WI085	62.14	58
WI091	62.14	58
WI096	62.14	58
WI127	62.14	58
WI131	62.14	58
WI142	73.99	69.06
WI160	62.14	58
WI166	62.14	58
WI183	67.59	63.08
WI186	62.14	58
WI193	62.14	58
WI195	76.51	71.4
WI201	73.99	69.06
WI203	68.65	64.08
WI204	63.17	58.95
WI205	62.14	58
WI206	62.14	58
WI208	62.14	58
WI213	62.3	58.16
WI214	82.35	76.86
WI218	73.99	69.06
WI219	68.65	64.08
WI221	62.14	58
WI222	62.14	58
WI231	62.14	58
WI233	62.14	58
WI237	63.3	59.08
WI241	62.14	58
WI244	68.22	63.67
WI245	62.14	58
WI246	62.58	58.4
WI248	62.14	58
WI256	62.14	58
WI901	62.14	58
WV001	85.71	80
WV003	69.13	64.53
WV004	70.66	65.95
WV005	67.82	63.3
WV006	71.43	66.66
WV009	72.19	67.38
WV010	73.5	68.6
WV015	67.82	63.3
WV016	69.85	65.19
WV017	64.93	60.6
WV018	64.93	60.6
WV027	66.28	61.87
WV034	64.93	60.6
WV035	67.25	62.78
WV037	70.66	65.95
WV039	67.82	63.3
WV042	67.82	63.3
WV045	64.93	60.6
WY002	89.7	83.73
WY003	75.62	70.58
WY004	108.08	100.88
WY013	75.62	70.58

[FR Doc. 2022–24594 Filed 11–9–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R3–ES–2022–0145; FXES11140300000–223]

Receipt of an Incidental Take Permit Application for Proposed Habitat Conservation Plan, Consumers Energy Natural Gas Pipeline Replacement; Five Counties, Michigan; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Consumers Energy for an incidental take permit under the Endangered Species Act. If approved, the permit would authorize the incidental take of a federally threatened species, the eastern massasauga rattlesnake (*Sistrurus catenatus;* EMR). The applicant has prepared a habitat conservation plan in support of their application. We have made a preliminary determination that the HCP and permit application are eligible for categorical exclusion under the National Environmental Policy Act. We invite comments from the public and Federal, Tribal, State, and local governments.

DATES: We will accept comments received or postmarked on or before December 12, 2022.

ADDRESSES:

Document availability: Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2022–0145 at *https://www.regulations.gov.*

Comment submission: Please specify whether your comment addresses the proposed habitat conservation plan, draft environmental action statement, any combination of the aforementioned documents, or other documents. You may submit written comments by one of the following methods:

- *Online: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–R3–ES–2022–0145.
- *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2022–0145; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Carrie Tansy, Deputy Field Supervisor, Michigan Ecological Services Field Office, by email at *carrie_tansy@fws.gov,* or telephone at 517–351–8375; or Andrew Horton, Regional HCP Coordinator, Midwest Region, by email at *andrew_horton@fws.gov* or telephone at 612–713–5337. 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: We, the U.S. Fish and Wildlife Service (Service), have received an application from Consumers Energy for an incidental take permit under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). If approved, the permit would be for a 15-year period and would authorize the incidental take of a federally threatened species, the eastern massasauga rattlesnake (*Sistrurus catenatus;* EMR). The applicant has prepared a habitat conservation plan (HCP) that describes the actions and measures proposed that would avoid, minimize, and mitigate incidental take of EMR along an approximate 56-mile (mi) construction corridor. We have made a preliminary determination that the HCP and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*).

Background

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the ''take'' of animal species listed as endangered or threatened. ''Take'' is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species], or to attempt to engage in such conduct'' (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may

issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits (ITP) for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Applicant's Proposed Project

The applicant requests a 15-year ITP to take the federally threatened eastern massasauga rattlesnake. The applicant determined that take is reasonably certain to occur incidental to the construction and maintenance of a 55.8-mi pipeline replacement project, covering approximately 721 acres (ac) of private land, 44 ac of which occur within presumed occupied EMR habitat. The applicant has submitted a HCP in support of their application for an ITP to address take of EMR. The HCP's area encompasses the counties of Clinton, Livingston, Shiawassee, Ingham, and Washtenaw, located in southern Michigan. The covered activities include the following: surveying and staking, vegetation clearing, grading, stringing and bending of pipe, trenching, backfilling, horizontal directional drilling, hydrostatic testing, habitat restoration, and ongoing pipeline maintenance. The applicant has determined that actions associated with construction and maintenance within the existing 56-mi pipeline corridor have the potential to incidentally take the species.

The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on EMR. The biological goals and objectives are to conduct the project in a manner that minimizes impacts and maintains persistence of EMR within the HCP area, to restore habitat postconstruction to maintain or improve preexisting habitat quality and function for EMR, and to monitor response of EMR to best management practices (BMPs) and site restoration to inform conservation efforts. The authorized level of take from the project is no more than two individual snakes over the 15-year project duration. To offset the impacts of the taking of snakes, the applicant proposes to restore the site to previous or improved condition and to provide conservation funds for EMR habitat protection and public education.

Our Preliminary Determination

We are requesting comments on our preliminary determination that the applicant's proposal will have a minor or negligible effect on the eastern massasauga and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (December 2016). We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusion under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, and 46.215). However, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. The U.S. Fish and Wildlife Service (Service) has made a preliminary determination that the applicant's project and the proposed mitigation measures would individually and cumulatively have a minor or negligible effect on the covered species and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion, and the HCP would be low effect under our NEPA regulations at 43 CFR 46.205.

Next Steps

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(l)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The environmental effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed;
3. Any threats to eastern massasauga that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or Catex screening form; and
4. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on *https://www.regulations.gov* all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

[FR Doc. 2022–24607 Filed 11–9–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2022–0123; FXIA16710900000–223–FF09A30000]

Marine Mammal Protection Act and Wild Bird Conservation Act; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on species for which the Service has jurisdiction under the Marine Mammal Protection Act (MMPA) and foreign bird species covered under the Wild Bird Conservation Act (WBCA). With some exceptions, the MMPA and WBCA prohibit activities with listed species unless Federal authorization is issued that allows such activities. These Acts also require that we invite public comment before issuing permits for any activity they otherwise prohibit with respect to any species.

DATES: We must receive comments by December 12, 2022.

ADDRESSES: *Obtaining Documents:* The application, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2022–0123.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2022–0123.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2022–0123; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2185 or via email at *DMAFR@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *https://www.regulations.gov* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 104(c) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and section 112(4) of the Wild Bird Conservation Act of 1992 (WBCA; 16 U.S.C. 4901–4916), we invite public comments on permit applications before final action is taken. With some exceptions, these Acts prohibit certain activities with listed species unless Federal authorization is issued that allows such activities. Service regulations regarding permits for any activity otherwise prohibited by the MMPA with respect to any marine mammals are available in title 50 of the Code of Federal Regulations in part 18. Service regulations regarding permits for any activity otherwise prohibited by the WBCA with respect to any wild birds are available in title 50 of the Code of Federal Regulations in part 15.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the marine mammal applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

III. Permit Applications

We invite comments on the following applications.

A. Marine Mammal Protection Act

Applicant: Offspring Films Ltd., Bristol, UK; Permit No. PER0027521

The applicant requests a permit to photograph (video and still photography) West Indian manatee (*Trichechus manatus*) in Florida, for the purpose of commercial photography. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Jason Gulley, Tampa, FL; Permit No. PER0030530

The applicant requests a permit to photograph (video and still photography) West Indian manatee (*Trichechus manatus*) in Florida, for the purpose of commercial photography. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Mote Marine Laboratory & Aquarium, Sarasota, FL; Permit No. PER0027767

The applicant requests to amend a permit for scientific research on Florida manatees (*Trichechus manatus*

latirostris) both in the wild or being held in captivity. This notification covers activities to be conducted by the applicant over a 5-year period.

B. Wild Bird Conservation Act

Applicant: Gerald Bobak, Ellijay, GA; Permit No. PER0051912

The applicant wishes to establish a cooperative breeding program for eclectus parrot (*Eclectus roratus*), importing into the United States 100 eclectus parrots from captive breeding facilities outside the United States. The applicant would be an active participant in this program. Once the program is established, additional applicants could apply to participate, which Laurella Desborough, of Claremore, Oklahoma, intends to do. If approved, the program will be overseen by the Organization of Professional Aviculturists, San Dimas, California.

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *https://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *https://www.regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and its implementing regulations and under the authority of the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901–4916). This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Brenda Tapia,

Supervisory Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2022–24549 Filed 11–9–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX23EE000101100]

Public Meeting of the National Geospatial Advisory Committee

AGENCY: U.S. Geological Survey, Department of Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the National Geospatial Advisory Committee (NGAC) will take place.

DATES: The meeting will be held as a webinar on Tuesday, December 6, 2022, from 1:00 p.m. to 5:00 p.m. and on Wednesday, December 7, 2022, from 1:00 p.m. to 5:00 p.m. (Eastern Standard Time).

ADDRESSES: The meeting will be held on-line and via teleconference. Instructions for accessing the meeting will be posted at *www.fgdc.gov/ngac.* Comments can be sent by email to *gs-faca@usgs.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Mahoney, Federal Geographic Data Committee (FGDC), USGS, by mail at 909 First Avenue, Room 703, Seattle, WA 98104; by email at *jmahoney@usgs.gov;* or by telephone at (206) 375–2565.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix 2), the Government in the Sunshine Act of 1976 (5 U.S.C. 552B, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The NGAC provides advice and recommendations related to management of Federal and national geospatial programs, the development of the National Spatial Data Infrastructure (NSDI), and the implementation of the Geospatial Data Act of 2018 (GDA) and the Office of Management and Budget Circular A–16. The NGAC reviews and comments on geospatial policy and management issues and provides a forum to convey views representative of non-federal stakeholders in the geospatial community. The NGAC meeting is one of the primary ways that the FGDC collaborates with its broad network of partners. Additional information about the NGAC meeting is available at: *www.fgdc.gov/ngac.*

Agenda Topics

—FGDC Update
—Landsat Advisory Group
—3D Elevation Program
—GDA Reporting
—GDA Implementation
—Geospatial Excellence and Innovation
—Executive Order 14008, Climate Mapping Initiative
—Integrated Geospatial Information Framework
—Public Comment

Meeting Accessibility/Special Accommodations: The webinar meeting is open to the public and will take place from 1:00 p.m. to 5:00 p.m. on December 6, 2022, and from 1:00 p.m. to 5:00 p.m. on December 7, 2022. Members of the public wishing to attend the meeting should visit *www.fgdc.gov/ngac* or contact Mr. John Mahoney (see **FOR FURTHER INFORMATION CONTACT**). Webinar/conference line instructions will be provided to registered attendees prior to the meeting.

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the (see **FOR FURTHER INFORMATION CONTACT**) section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Individuals in the United States who are deaf, blind, 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.

Public Disclosure of Comments: There will be an opportunity for public comment during both days of the meeting. Depending on the number of people who wish to speak and the time available, the time for individual comments may be limited. Written comments may also be sent to the Committee for consideration. To allow for full consideration of information by Committee members, written comments must be provided to John Mahoney (see **FOR FURTHER INFORMATION CONTACT**) at least three (3) business days prior to the meeting. Any written comments received will be provided to Committee members before the meeting.

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 may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

(Authority: 5 U.S.C. appendix 2)

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2022–24592 Filed 11–9–22; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/ A0A501010.999900; OMB Control Number 1076–0162]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Navajo Partitioned Lands Grazing Permits

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 renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 12, 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 1076–0162 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Steven Mullen, Information Collection Clearance Officer, *comments@bia.gov,* (202) 924–2650. 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 September 10, 2021 (86 FR 50737). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This information collection is authorized under 25 CFR 161, which implements the Navajo-Hopi Indian Relocation Amendments Act of 1980, 94 Stat. 929, and the Federal court decisions of *Healing* v. *Jones,* 174 F. Supp. 211 (D. Ariz. 1959) (Healing I), *Healing* v. *Jones,* 210 F. Supp. 126 (D. Ariz. 1962), aff'd 363 U.S. 758 (1963) (Healing II), *Hopi Tribe* v. *Watt,* 530 F. Supp. 1217 (D. Ariz. 1982), and *Hopi Tribe* v. *Watt,* 719 F.2d 314 (9th Cir. 1983). This information collection allows BIA to receive the information necessary to determine whether an applicant to obtain, modify, or assign a grazing permit on Navajo Partitioned Lands is eligible and complies with all applicable grazing permit requirements. The data is collected by electronic global positioning systems and field office interviews by BIA & Navajo Nation staff. The data is maintained by BIA's Navajo Partitioned Lands office.

Title of Collection: Navajo Partitioned Lands Grazing Permits.

OMB Control Number: 1076–0162.

Form Number: 5–5015 and 5–5022.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Tribes, Tribal organizations, and individual Indians.

Total Estimated Number of Annual Respondents: 700.

Total Estimated Number of Annual Responses: 3,121.

Estimated Completion Time per Response: Varies from 15 minutes to 2 hours.

Total Estimated Number of Annual Burden Hours: 2,123.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Annually.

Total Estimated Annual Non-Hour 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. 2022–24528 Filed 11–9–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034850; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alabama Department of Archives and History, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Alabama Department of Archives and History (ADAH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Lowndes County and Montgomery County, AL.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 12, 2022.

ADDRESSES: Kellie Bowers, NAGPRA Coordinator, Alabama Department of Archives and History, P.O. Box 300100, 624 Washington Avenue, Montgomery, AL 36130, telephone (334) 353–4731, email *nagpra.adah@archives.alabama.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Alabama Department of Archives and History. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Alabama Department of Archives and History.

Description

Lowndes County, AL

On various dates between 1912 and 1916, and at other, unknown times, human remains representing, at minimum, 26 individuals were removed from the Pintlala site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (*Human Remains Identification Numbers 4101, 4138, 4139, 4140, 4170, 4171, 4175, 4176, 4177, 4178, 4179, 4180, 4181, 4182, 4185, 4187, 4188, 4189, 4190, 4191, 4192, 4194, and 4195.*) No known individuals were identified. No associated funerary objects are present.

On February 7, 1916, human remains representing, at minimum, one individual were removed from the Pintlala site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4172). No known individual was identified. The seven associated funerary objects are one shell tempered vessel (burial urn), and six ceramic sherds.

On February 7, 1916, human remains representing, at minimum, one individual were removed from the Pintlala site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4173). No known individual was identified. The 30 associated funerary objects are two shell tempered vessels (burial urns), seven ceramic sherds, one ceramic disc, ten stone celt fragments, one stone pigment source, seven stone projectile points, one scraper, and one shell gorget.

On an unknown date, human remains representing, at minimum, one individual were removed from the Pintlala site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4174). No known individual was identified. The one associated funerary object is a shell tempered ceramic sherd.

On February 10, 1916, human remains representing, at minimum, one individual were removed from the Pintlala site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4183). No known individual was identified. The 21 associated funerary objects are 20 ceramic sherds and one piece of daub (clay mixed with grass or straw).

On February 10, 1916, human remains representing, at minimum, one individual were removed from the Pintlala site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4186). No known individual was identified. The two associated funerary objects are one Mississippian plain vessel with strap handles (burial urn) and one incised ceramic cover vessel.

Montgomery County, AL

At an unknown date, human remains representing, at minimum, one individual were removed from the Hoithlewalli site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4116). No known individual was identified. The 197 associated funerary objects are one white clay pipe stem, three celts, 141 assorted projectile points/knives, 36 flakes, seven preforms, six stone drills, and three scrapers.

At an unknown date, human remains representing, at minimum, one individual were removed from the Hoithlewalli site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4122). No known individual was identified. The five associated funerary objects are one brass cone (''tinkler'') and four white clay pipe stem fragments.

At an unknown date, human remains representing, at minimum, one individual were removed from the Hoithlewalli site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Number 4125). No known individual was identified. The 56 associated funerary objects are two glass beads, two stone discs, three stone celts, three worked stones, five ceramic discs, five Native American ceramic sherds, and 36 projectile points.

At an unknown date, human remains representing, at minimum, three individuals were removed from the Hoithlewalli site by members of the Alabama Anthropological Society. Between 1916 and 1951, these human remains were donated to the ADAH (Human Remains Identification Numbers 4126 and 4128). No known individuals were identified. The 30 associated funerary objects are two stone celts, 23 Native American ceramic sherds, three ceramic discs, and two round stones.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more

Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, historical, kinship, and linguistic.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Alabama Department of Archives and History has determined that:

- The human remains described in this notice represent the physical remains of 37 individuals of Native American ancestry.
- The 349 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas (*previously* listed as Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Kialegee Tribal Town; Miccosukee Tribe of Indians; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians (*previously* listed as Poarch Band of Creeks); Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)); The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after December 12, 2022. If competing requests for repatriation are received, the Alabama Department of Archives and History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Alabama Department of Archives and History is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, and § 10.14.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24557 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034851; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Arkansas Museum Collections, Fayetteville, AR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Arkansas Museum Collections has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Cross County, Arkansas.

DATES: Repatriation of the human remains in this notice may occur on or after December 12, 2022.

ADDRESSES: Dr. Mary Suter, The University of Arkansas Museum Collections, Biomass 125, 2435 N Hatch Avenue, Fayetteville, AR 72701, telephone (479) 575–3456, email *msuter@uark.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Arkansas Museum Collections. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of Arkansas Museum Collections.

Description

In 1966, human remains representing, at minimum, one individual were removed from 3CS38 in Cross County, AR, during a Museum surface collection. The human remains belong to an adult of unknown age and sex. No known individual was identified. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, historical, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of Arkansas Museum Collections has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Quapaw Nation (*previously* listed as The Quapaw Tribe of Indians).

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after December 12, 2022. If competing

requests for repatriation are received, the University of Arkansas Museum Collections must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The University of Arkansas Museum Collections is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24558 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034848; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of California, Riverside, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Riverside (UCR) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Clark County, NV.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 12, 2022.

ADDRESSES: Megan Murphy, University of California, Riverside, 900 University Avenue, Riverside, CA 92517–5900, telephone (951) 827–6349, email *megan.murphy@ucr.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Riverside. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of California, Riverside.

Description

At an unknown date, human remains representing, at minimum, one individual were removed from Clark County, NV. Subsequently, these human remains were part of a collection kept at the UCR Radiocarbon Laboratory and under the direction of Dr. R. Ervin Taylor. When Taylor retired in 2003, the lab was decommissioned, and Taylor removed the records and remaining sample materials to his private residence. When Dr. Taylor passed away in 2019, these records and samples were transferred to the UCR Library, whereupon these human remains were discovered among the samples. Not until September of 2021 were UCR NAGPRA Staff able to find documentation concerning the removal of these human remains. Radiocarbon dates suggest a date of A.D. 1220 +/− for the remains. No known individual was identified. The 12 associated funerary objects are two ash samples, one lot of carbonized corn cobs, three flaked-stone chips, four animal bones, one lot of pollen samples, and one lot of charcoal.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, oral traditional, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of California, Riverside has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 12 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after December 12, 2022. If competing requests for repatriation are received, the University of California, Riverside must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of California, Riverside is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24554 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034846; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Tennessee, Department of Anthropology, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Tennessee, Department of Anthropology (UTK), has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Leavenworth County, KS.

DATES: Repatriation of the human remains in this notice may occur on or after December 12, 2022.

ADDRESSES: Dr. Robert Hinde, Vice Provost for Academic Affairs, University of Tennessee, 527 Andy Holt Tower, Knoxville, TN 37996–0152, telephone (865) 974–2445, email *vpaa@utk.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of UTK. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by UTK.

Description

Between 1969 and 1970, human remains representing, at minimum, seven individuals were removed from 14LV330, the Nester site, in Leavenworth County, KS. The first burial was discovered when a backhoe trench was dug in front of the Nester house in 1969. Leavenworth County Sheriff Dan Hawes contacted William Bass at the University of Kansas (KU) to excavate. William Bass and students excavated two additional burials in 1969, and a fourth burial in 1970. Following excavation, the ancestral human remains and burial objects were moved to the KU Museum of Anthropology. In 1971, Bass moved from KU to UTK, and brought the human remains from the Nester site to UTK. In addition to the four individuals identified by Bass, single skeletal elements belonging to an additional three individuals were identified during a more recent inventory. Most likely, William Bass brought them to UTK in 1971, when he started working at the university. Numerous historic funerary objects excavated from the Nester site (none of which are under the control of UTK) support a date prior to 1750 for the interments. No known individuals were identified. Only three associated funerary objects were transferred to UTK. They are one lot of beads, one lot of stone, and one lot of faunal bones.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, historical, and geographical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of Tennessee, Department of Anthropology has determined that:

- The human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- The three lots of objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Kaw Nation, Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to Dr. Robert Hinde, Vice Provost for Academic Affairs, University of Tennessee, 527 Andy Holt Tower, Knoxville, TN 37996–0152, telephone (865) 974–2445, email *vpaa@utk.edu.* Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after December 12, 2022. If competing requests for repatriation are received, the University of Tennessee, Department of Anthropology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Tennessee, Department of Anthropology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24553 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–ACAD–34709; PPNEACADSO, PPMPSPDIZ.YM0000]

Request for Nominations for the Acadia National Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior, is requesting nominations for qualified persons to serve as members of the Acadia National Park Advisory Commission (Commission).

DATES: Written nominations must be postmarked by December 12, 2022.

ADDRESSES: Nominations should be sent to Brandon Bies, Deputy Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, or by email *brandon_bies@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Brandon Bies, via telephone at (207) 288–8701. 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: The Commission was established by section

103 of Public Law 99–420, as amended, (16 U.S.C. 341 note), and in accordance with the Federal Advisory Committee Act (5 U.S.C. appendix 1–16). The Commission advises the Secretary of the Interior (Secretary) and the NPS on matters relating to the management and development of Acadia National Park, including but not limited to, the acquisition of lands and interests in lands (including conservation easements on islands) and the termination of rights of use and occupancy.

The Commission is composed of 16 members appointed by the Secretary, as follows: (a) three members at large; (b) three members appointed from among individuals recommended by the Governor of Maine; (c) four members appointed from among individuals recommended by each of the four towns on the island of Mount Desert; (d) three members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton; and (e) three members appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

The NPS is seeking nominees to represent every category except Winter Harbor. Individuals selected to serve as the members at large will be appointed as special Government employees (SGEs). Individuals selected from the other categories will be appointed as representative members. Please be aware that members selected to serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following website: *https://www.doi.gov/ethics/special-government-employees/financial* disclosure. Additionally, after appointment, members appointed as SGEs will be required to meet applicable financial disclosure and ethics training requirements. Please contact 202–208–7960 or *DOI_Ethics@sol.doi.gov* with any questions about the ethics requirements for members appointed as SGEs.

Nominations received by the park will be sent directly to local municipalities for their consideration. Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member. All documentation, including letters of recommendation, must be compiled and submitted in one complete package. All those interested in membership, including current members whose terms are expiring, must follow the same nomination process. Members may not appoint deputies or alternates.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under section 5703 of title 5 of the United States Code.

(Authority: 5 U.S.C. appendix 2)

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2022–24589 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NRSS–OSAE–NPS0034512; PPMRSNR1Y.NM0000 PPWONRADD3 (222); OMB Control Number 1024–0275]

Agency Information Collection Activities; Using Web and Mobile-Based Apps During NPS Citizen Science Events

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are 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 NPS Information Collection Clearance Officer (ADIR–ICCO), National Park Service, 12201 Sunrise Valley Drive, (MS–242) Reston, VA 20191 (mail); or to *phadrea_ponds@nps.gov* (email). Please reference Office of Management and Budget (OMB) Control Number 1024–0275 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Timothy Watkins, Science Access and Engagement Coordinator, Natural Resource Stewardship and Science Directorate, National Park Service, 1849 C Street NW, Mail stop 2647, Washington, DC 20240 (mail); *tim_watkins@nps.gov* (email); or: 202–513–7189 (phone). Please reference OMB Control Number 1024–0275 in the subject line of your comments. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of

public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The NPS is authorized by the National Park Service Protection Interpretation and Research in System (54 U.S.C. 100701) to collect this information. The NPS is requesting approval to use mobile and web-based apps (*e.g.,* iNaturalist, eBird, etc.) to collect natural history and observational information during NPS sponsored-citizen science events. The information will be used to substantiate the occurrence of plant, wildlife, and invertebrate species within NPS units during these events. By using citizen science apps, information will be immediately available to all parks and others interested in species identification and advancing the knowledge of the natural world. Using mobile and web-based apps will enable parks to increase the understanding of the biodiversity within the park systems.

Title of Collection: Using web and mobile-based apps during NPS Citizen Science events.

OMB Control Number: 1024–0275.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Description of Respondents: General public, individual households, and non-federal scientists.

Total Estimated Number of Annual Respondents: 9,500.

Total Estimated Number of Annual Responses: 142,500.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 11,875 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2022–24483 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034856; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, University of Memphis, Memphis, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The C.H. Nash Memorial Museum/Chucalissa Archaeological Museum (Nash Museum) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Nash Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Nash Museum at the address in this notice by December 12, 2022.

FOR FURTHER INFORMATION CONTACT: C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, University of Memphis, 1987 Indian Village Drive, Memphis, TN 38109, telephone (901) 785–3160, email *chucalissa@memphis.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, University of Memphis, Memphis, TN. The human remains and associated funerary objects were removed from Colbert County, AL, Hardeman County, TN, and an unidentified site in northwest TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Nash Museum professional staff in consultation with representatives of the Cherokee Nation; Eastern Band of Cherokee Indians; The Chickasaw Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 1981, human remains representing, at minimum, five individuals were removed from site 1CT44 in Colbert County, AL, by C.H. Nash Memorial Museum/Chucalissa Archaeological Museum staff. The human remains (1CT44/2010.01.02, 1CT44/2010.01.03, 1CT44/2010.01.04, 1CT44/2010.01.05, 1CT44/2010.01.06) belong to five individuals of unknown age and sex. No known individuals were identified. The four associated funerary objects are four lithic fragments.

In the 1950s, human remains representing, at minimum, one individual were removed from a site on Spring Creek near the City of Bolivar in Hardeman County, TN. The human remains were surface collected by the Memphis Archaeological and Geological Society and then donated to the Memphis Museums System. In 1984, the Memphis Museums System donated the human remains to the C.H. Nash Museum. The human remains (MAGS Lot #35/8) belong to an adult of unknown sex. No known individual was identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from an

unknown site in northwest TN. The human remains were surface collected by H. Crenshaw. In 1991, Crenshaw donated his collection (C–92), including these human remains, to the C.H. Nash Museum. The human remains (D1991.03.90/1, D1991.03.90.1a) belong to an adult of unknown sex. No known individual was identified. No associated funerary objects are present.

Determinations Made by the C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, University of Memphis

Officials of the C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, University of Memphis have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological examination, museum records, and/or archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the four objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Eastern Band of Cherokee Indians; The Chickasaw Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Tribes'').
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Melissa Buchner, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, University of Memphis, 1987 Indian Village Drive, Memphis, TN 38109, telephone (901) 785–3160, email *chucalissa@memphis.edu,* by December 12, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, University of Memphis is responsible for notifying The Tribes and the Cherokee Nation that this notice has been published.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24560 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034855; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Federal Bureau of Investigation, Art Theft Program, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Federal Bureau of Investigation (FBI), in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the FBI. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the FBI at the address in this notice by December 12, 2022.

FOR FURTHER INFORMATION CONTACT: Federal Bureau of Investigation, FBI Headquarters, Attn: Supervisory Special Agent (SSA) Randolph J. Deaton IV, Art Theft Program, 935 Pennsylvania Avenue NW, Washington, DC 20535, telephone (202) 324–5525, email *artifacts@ic.fbi.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Federal Bureau of Investigation, Washington, DC, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

At an unknown date, four cultural items were removed from the Four Corners region of the southwestern United States transported to Indiana, where they remained part of a private collection. In April of 2014, these cultural items were seized by the FBI as part of a criminal investigation.

Through consultation with representatives of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, the cultural affiliation of these four items with the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado was determined and the identification of the items as sacred objects was established. The Southern Ute Indian Tribe's ''original territory'' and ancestral homelands extended throughout the Four Corners region. According to Ute oral traditional knowledge, ''the Utes were created by Sinawav (the Creator) and were placed in the mountains. The Sinawav told the people they would be few in number but, they would be strong warriors, and protectors of their lands. There is no migration story, we were placed here in the mountains, we have always been here, we will always be here.''

Determinations Made by the Federal Bureau of Investigation

Officials of the Federal Bureau of Investigation have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the four cultural items described above are specific sacred/ceremonial objects needed by traditional Native American religious leaders for the practice of

traditional Native American religions by their present-day adherents.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Federal Bureau of Investigation, FBI Headquarters, Attn: Supervisory Special Agent (SSA) Randolph J. Deaton IV, Art Theft Program, 935 Pennsylvania Avenue NW, Washington, DC 20535, telephone (202) 324–5525, email *artifacts@ic.fbi.gov,* by December 12, 2022. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado may proceed.

The Federal Bureau of Investigation is responsible for notifying the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado that this notice has been published.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24559 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034847; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of California, Riverside, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Riverside has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from San Diego County, CA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after December 12, 2022.

ADDRESSES: Megan Murphy, University of California, Riverside, 900 University Avenue, Riverside, CA 92517–5900, telephone (951) 827–6349, email *megan.murphy@ucr.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Riverside. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of California, Riverside.

Description

At an unknown date, human remains representing, at minimum, one individual were removed from San Diego County, CA. These human remains were part of the collection of Lottie and Hugh Thorne of San Bernardino, CA. In the 1960s, the Thornes donated this collection to the University of California, Riverside (UCR). Little documentation associated with the accession of this collection by UCR exists, but through archival research and correspondence with living descendants of Lottie Thorne, UCR NAGPRA Project Staff pieced together general background information. According to the living grandchildren of Lottie Thorne, Lottie and Hugh were prolific mineral and artifact collectors who spent time on the coast of Southern California, often camping and collecting for extended periods of time at San Onofre and Balboa. No known individual was identified. The 94 associated funerary objects are five ceramic sherds, 24 lithic objects, three stone axe heads, 25 modified bone objects, one ground stone, 34 fish vertebrae beads, one piece of asphaltum, and one milling stone.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological information, geographical information, historical information, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of California, Riverside has determined that:

• The human remains described in this notice represent the physical remains of one individual of Native American ancestry.

• The 94 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California (*previously* listed as Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation); Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; and the Sycuan Band of the Kumeyaay Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after December 12, 2022. If competing requests for repatriation are received, the University of California, Riverside must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of California, Riverside is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24555 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034849; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Michigan State University, East Lansing, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Michigan State University has completed an inventory of human remains and an associated funerary object, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary object and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request to Michigan State University. If no additional requestors come forward, transfer of control of the human remains and associated funerary object to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request with information in support of the request to Michigan State University at the address in this notice by December 12, 2022.

FOR FURTHER INFORMATION CONTACT: Judith Stoddart, Associate Provost, University Arts and Collections, Michigan State University, 287 Delta Court, East Lansing, MI 48824, telephone (517) 432–2524, email *stoddart@msu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and an associated funerary object under the control of Michigan State University, East Lansing, MI. The human remains and associated funerary object were removed from Cass and Oakland Counties, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Michigan State University professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (*previously* listed as Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Turtle Mountain Band of Chippewa Indians of North Dakota; and two non-federally recognized Indian groups, the Burt Lake Band of Ottawa and Chippewa Indians, and the Grand River Band of Ottawa Indians.

The following Indian Tribes were invited to consult but did not participate: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (*previously* listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Little Shell Tribe of Chippewa Indians of Montana; Menominee Indian Tribe of Wisconsin; Miami Tribe of Oklahoma; Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Seneca Nation of Indians (*previously* listed as Seneca Nation of New York); Seneca-Cayuga Nation (*previously* listed as Seneca-Cayuga Tribe of Oklahoma); Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (*previously* listed as Tonawanda Band of Seneca Indians of New York); and the Wyandotte Nation.

Hereafter, all the Indian Tribes and non-federally recognized Indian groups listed in this section are referred to as ''The Consulted and Invited Tribes and Groups.''

History and Description of the Remains

On an unknown date, human remains representing, at minimum, one individual were removed from a mound in Cass County, MI. The human remains (2004.46.58) were acquired by Kalamazoo resident Donald Boudeman, who collected Native American material culture in the first half of the twentieth century. In July of 1961, Boudeman's wife, Donna Boudeman, donated the human remains, together with Mr.

Boudeman's collection, to Michigan State University Museum. No known individual was identified. No associated funerary objects are present.

In 1961, human remains representing, at minimum, two individuals were removed from private property in the city of Southfield, Oakland County, MI. In 2017, the human remains (FA–033–17) were brought to the Michigan State University Forensic Anthropology Laboratory by the landowner, who had recovered the burials as a child. No known individuals were identified. The one associated funerary object is a piece of charcoal.

Determinations Made by the Michigan State University

Officials of Michigan State University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on biological evidence, museum records, and geographic location.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary object and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary object were removed is the aboriginal land of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (*previously* listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Menominee Indian Tribe of Wisconsin; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (*previously* listed as Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (*previously* listed as Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians (*previously* listed as Seneca Nation of New York); Seneca-Cayuga Nation (*previously* listed as Seneca-Cayuga Tribe of Oklahoma); Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (*previously* listed as Tonawanda Band of Seneca Indians of New York); Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation (hereafter referred to as ''The Tribes'').
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary object were removed is the aboriginal land of The Tribes.
- According to other authoritative government sources, the land from which the Native American human remains and associated funerary object were removed is the aboriginal land of the Menominee Indian Tribe of Wisconsin.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary object may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request with information in support of the request to Judith Stoddart, Associate Provost, University Arts and Collections, Michigan State University, 287 Delta Court, East Lansing, MI 48824, telephone (517) 432–2524, email *stoddart@msu.edu,* by December 12, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary object to The Tribes may proceed.

Michigan State University is responsible for notifying The Consulted and Invited Tribes and Groups that this notice has been published.

Dated: November 2, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–24556 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–NPS0034298; PPWONRADE1 PPMRSNR1Y:NM0000 211P103601; OMB Control Number 1024–0254]

Agency Information Collection Activities; Comprehensive Survey of the American Public, Fourth Iteration

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 we, the National Park Service (NPS) are proposing to reinstate a previously discontinued 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 Phadrea Ponds, NPS Information Collection Clearance Officer, 12201 Sunrise Valley Drive (MS–242), Reston, Virginia 20192 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Office of Management and Budget (OMB) Control Number 1024–0254 (CSAP4) in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Bret Meldrum, Social Science Program Manager at *bret_meldrum@nps.gov* (email) or Jeremy Sage at *Jeremy@rrcassociates.com* (email). Please reference OMB Control Number 1024–0254 (CSAP4) in the subject line of your comments.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA.

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 personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This information collection request seeks to reinstate a previously discontinued collection. The Comprehensive Survey of the American Public (CSAP) is the only national information collection by the NPS that describes visitors and non-visitors to units of the National Park System. Information on non-visitors, including their demographic characteristics and reasons for their non-visitation, is especially important in designing programs to reach underserved populations more effectively. The CSAP is administered every 5 years, a period determined to be long enough to identify important trends in key measures and to survey visitor and non-visitor perceptions, attitudes, behaviors, and knowledge related to the programs, services, and recreational opportunities offered by the NPS. Based on the strong mandate for socioeconomic monitoring expressed in the NPS strategic goals for science and the Department of the Interior priorities for 2018–2022, this information collection will provide the high-quality data required to enhance the development of programs and resources within the NPS. In addition to telephone surveys, the 2022 CSAP will use online data collecting methods as an option to mitigate expenses and address the diminishing return rate of telephone surveys in the previous iterations.

Title of Collection: 2022 Comprehensive Survey of the American Public.

OMB Control Number: 1024–0254.

Form Number: None.

Type of Review: Reinstate a previously approved information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Respondents: 3,500 (1,750 phone and 1,750 online).

Estimated Completion Time per Response: Varies by the response: 25 minutes (phone) and 15 minutes (online).

Total Estimated Number of Annual Burden Hours: 1,167.

Respondent's Obligation: Voluntary.

Frequency of Collection: Once.

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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2022–24482 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–ANIA–CAKR–GAAR–LACL–WRST–34486; PPAKAKROR4, PPMPRLE1Y.LS0000]

Request for Nominations for the National Park Service Alaska Region Subsistence Resource Commission Program

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS) is seeking nominations for individuals to represent subsistence users on the following Subsistence Resource Commissions (SRC): the Aniakchak National Monument SRC, the Cape Krusenstern National Monument SRC, the Gates of the Arctic SRC, the Lake Clark National Park SRC, and the Wrangell-St. Elias National Park SRC.

DATES: Nominations must be postmarked by February 8, 2023.

ADDRESSES: Nominations should be sent to: Eva Patton, Regional Subsistence Program Manager, National Park Service Alaska Regional Office, 240 W 5th Avenue, Anchorage, AK 99501, or *eva_patton@nps.gov,* or via telephone (907) 644–3601.

FOR FURTHER INFORMATION CONTACT: Eva Patton via telephone at (907) 644–3601. 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: The NPS SRC program is authorized under section 808 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3118). The SRCs hold meetings to develop NPS subsistence program recommendations and advise on related regulatory proposals and resource management issues.

Each SRC is composed of nine representative members: (a) three

members appointed by the Secretary of the Interior; (b) three members appointed by the Governor of the State of Alaska; and (c) three members appointed by a Regional Advisory Council (RAC), established pursuant to 16 U.S.C. 3115, which has jurisdiction within the area in which the park is located. Each of the three members appointed by the RAC must be a member of either the RAC or a local advisory committee within the region who also engages in subsistence uses within the park or national monument.

We are now seeking nominations for those members of each of the SRCs listed above. Members will be appointed for a term of three years. Members of the SRC serve without compensation. However, while away from their homes or regular places of business in the performance of services for the SRC, and as approved by the Designated Federal Officer (DFO), members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under Section 5703 of Title 5 of the United States Code.

SRC meetings will take place at such times as designated by the DFO. Members are expected to make every effort to attend all meetings. Members may not appoint deputies or alternates.

We are seeking nominations for members to represent subsistence users on each of the five SRCs listed above. All those interested in serving as members, including current members whose terms are expiring, must follow the same nomination process.

Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the SRC, and to permit the Department to contact a potential member.

(Authority: 5 U.S.C. Appendix 2)

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2022–24590 Filed 11–9–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

AGENCY: Office of Workers' Compensation Programs.

ACTION: Announcement of meeting of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The Advisory Board will meet November 30–December 1, 2022, in Las Vegas, Nevada, near the Nevada Test Site covered facility. Submission of comments, requests to speak, materials for the record, and requests for special accommodations: You must submit comments, materials, requests to speak at the Advisory Board meeting, and requests for accommodations by November 23, 2022, identified by the Advisory Board name and the meeting date of November 30–December 1, 2022, by any of the following methods:

• *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, for example ''Request to Speak: Advisory Board on Toxic Substances and Worker Health'').

• *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW, Washington, DC 20210.

Instructions: Your submissions must include the Agency name (OWCP), the committee name (the Advisory Board), and the meeting date (November 30–December 1, 2022). Due to security-related procedures, receipt of submissions by regular mail may experience significant delays. For additional information about submissions, see the **SUPPLEMENTARY INFORMATION** section of this notice.

OWCP will make available publicly, without change, any comments, requests to speak, and speaker presentations, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

ADDRESSES: The Advisory Board will meet at the JW Marriott Las Vegas Resort & Spa, 221 N Rampart Blvd., Las Vegas, Nevada 89145. Telephone: 877–869–8777.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Laura McGinnis, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW, Washington, DC 20210; telephone (202) 693–4672; email *Mcginnis.Laura@DOL.GOV.*

SUPPLEMENTARY INFORMATION: The Advisory Board will meet: Tuesday, November 29, 2022, for a fact-finding site visit to the Nevada Test Site, accompanied by the Designated Federal Officer; Wednesday, November 30, 2022, from 9:00 a.m. to 5:30 p.m. Pacific time; and Thursday, December 1, 2022, from 8:30 a.m. to 11:00 a.m. Pacific time in Las Vegas, Nevada. Some Advisory Board members may attend the meeting by teleconference. The teleconference number and other details for participating remotely will be posted on the Advisory Board's website, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* 72 hours prior to the commencement of the first meeting date. Advisory Board meetings are open to the public.

Public comment session: Wednesday, November 30, 2022, from 4:45 p.m. to 5:30 p.m. Pacific time. Please note that the public comment session ends at the time indicated or following the last call for comments, whichever is earlier. Members of the public who wish to provide public comments should plan to either be at the meeting location or call in to the public comment session at the start time listed.

The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) the Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency; (5) the claims adjudication process generally, including review of procedure manual changes prior to incorporation into the manual and claims for medical benefits; and (6) such other matters as the Secretary considers appropriate. The Advisory Board sunsets on December 19, 2024.

The Advisory Board operates in accordance with the Federal Advisory

Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the Advisory Board meeting includes:

- New member training on FACA, EEOICPA, and ethics, and administrative sessions;
- Review and follow-up on Advisory Board's previous recommendations, data requests, and action items;
- Discussion of resources requested;
- Review responses to Board questions;
- Planning for large case review;
- Review of Board tasks, structure and work agenda;
- Consideration of any new issues; and
- Public comments.

OWCP transcribes and prepares detailed minutes of Advisory Board meetings. OWCP posts the transcripts and minutes on the Advisory Board web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments, speaker presentations, and other materials submitted to the Advisory Board or presented at Advisory Board meetings.

Public Participation, Submissions and Access to Public Record

Advisory Board meetings: All Advisory Board meetings are open to the public. Information on how to participate in the meeting remotely will be posted on the Advisory Board's website.

Submission of comments: You may submit comments using one of the methods listed in the **SUMMARY** section. Your submission must include the Agency name (OWCP) and date for this Advisory Board meeting (November 30–December 1, 2022). OWCP will post your comments on the Advisory Board website and provide your submissions to Advisory Board members.

Because of security-related procedures, receipt of submissions by regular mail may experience significant delays.

Requests to speak and speaker presentations: If you want to address the Advisory Board at the meeting you must submit a request to speak, as well as any written or electronic presentation, by November 23, 2022, using one of the methods listed in the **SUMMARY** section. Your request may include:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of the presentation.

PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats. The Advisory Board Chair may grant requests to address the Board as time and circumstances permit.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

For further information regarding this meeting, you may contact Ryan Jansen, Designated Federal Officer, at *jansen.ryan@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW, Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC, this 7th day of November, 2022.

Christopher Godfrey,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2022–24574 Filed 11–9–22; 8:45 am]

BILLING CODE 4510–CR–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors will meet virtually on November 17, 2022. The meeting will commence at 11:30 a.m. EDT, and will continue until the conclusion of the Committee's agenda.

PLACE:

Public Notice of Virtual Meetings: LSC will conduct the November 17, 2022 meeting via Zoom.

Public Observation: Unless otherwise noted herein, the Board of Directors meeting will be open to public observation via Zoom. Members of the public who wish to participate remotely in the public proceedings may do so by following the directions provided below.

Directions for Open Session

November 17, 2022

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/85644801449?pwd=Z0RrQ0tuM2F5MDBJWldHSkJ6Q2REQT09*
  - *Meeting ID:* 856 4480 1449
  - *Passcode:* 642604
- To join the Zoom meeting with one tap from your mobile phone, please click dial:
  - +13092053325,,85644801449# US
  - +13126266799,,85644801449# US (Chicago)
- To join the Zoom meeting by telephone, please dial one of the following numbers:
  - +1 312 626 6799 US (Chicago)
  - +1 646 876 9923 US (New York)
  - +1 301 715 8592 US (Washington DC)
  - +1 408 638 0968 US (San Jose)
  - +1 669 900 6833 US (San Jose)
  - +1 253 215 8782 US (Tacoma)
  - +1 346 248 7799 US (Houston)
  - *Meeting ID:* 837 0201 0102
  - *Passcode:* 711899

Once connected to Zoom, please immediately mute your computer or telephone. Members of the public are asked to keep their computers or telephones muted to eliminate background noise. To avoid disrupting the meetings, please refrain from placing the call on hold if doing so will trigger recorded music or other sound.

From time to time, the Board Chair may solicit comments from the public. To participate in the meeting during public comment, use the 'raise your hand' or 'chat' functions in Zoom and wait to be recognized by the Chair before stating your questions and/or comments.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Consider and Act on the Board of Directors' Transmittal Letter to Accompany the Inspector General's Semiannual Report to Congress for the Period of April 1, 2022 through September 30, 2022
3. Public Comment
4. Consider and Act on Other Business
5. Consider and Act on Adjournment of Meeting

CONTACT PERSON FOR MORE INFORMATION: Kaitlin Brown, Executive and Board Project Coordinator, at (202) 295–1555. Questions may also be sent by electronic mail to *brownk@lsc.gov.*

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at *https://www.lsc.gov/about-lsc/board-meeting-materials.*

Dated: November 8, 2022.

Kaitlin D. Brown,

Executive and Board Project Coordinator, Legal Services Corporation.

[FR Doc. 2022–24681 Filed 11–8–22; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2023–005]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: We have submitted a request to the Office of Management and Budget (OMB) for approval to continue to use a currently approved information collection that our Office of Government Information Services (OGIS) uses to obtain customer intake information and consent as part of its mediation services program. We invite you to comment on the proposed information collection.

DATES: OMB must receive written comments on or before December 12, 2022.

ADDRESSES: Send any comments and recommendations on the proposed information collection in writing to *www.reginfo.gov/public/do/PRAMain.* You can find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at *tamee.fechhelm@nara.gov* or by telephone at 301.837.1694 with any requests for additional information.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. We published a notice of proposed collection for this information collection on July 29, 2022 (87 FR 45804) and we received no comments. We are therefore submitting the described information collection to OMB for approval.

If you have comments or suggestions, they should address one or more of the following points: (a) whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses.

In this notice, we solicit comments concerning the following information collection:

Title: Freedom of Information Act (FOIA) Request for Assistance and Consent.

OMB number: 3095–0068.

Included agency form: NA Form 10003, Consent to Make Inquiries and Release of Information and Records.

Type of review: Regular.

Affected public: Individuals or households, business or other for-profit, not-for-profit institutions, and Federal Government.

Estimated number of respondents: 3,676.

Estimated time per response: Ten minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 609 hours.

Abstract: In order to fulfill its Government-wide statutory mission to mediate FOIA disputes between requesters and agencies, OGIS must communicate with Government departments and agencies regarding the customer's FOIA/Privacy Act of 1974 request or appeal. As a result, OGIS collects intake information from customers who request OGIS's mediation services. This information includes the customer's name, contact information, FOIA case number, information on the customer's concern areas/resolution goals, and documents relating to the underlying FOIA/Privacy Act request or appeal. Customers provide this information by phone, fax, email, or mail.

OGIS and other agencies must handle FOIA and Privacy Act-protected case information in conformity with the requirements of the FOIA and Privacy Act, including 5 U.S.C. 552a(b), which prohibits agencies from releasing Privacy-Act protected information without an already-established routine use or consent of the person to whom the information pertains. In accord with this requirement, a subset of customers also must fill out a privacy consent form, NA Form 10003, if dealing with an agency that has not published a system of records notice with a routine use for release of information to OGIS.

OGIS uses the information customers provide in this information collection to contact customers, request information on the customer's case from other Federal agencies, and provide the requested assistance. Without the information submitted in the intake process and the consent form, OGIS would be unable to get the information from other agencies or fulfill its mediation mission.

Sheena Burrell,

Executive for Information Services/CIO.

[FR Doc. 2022–24525 Filed 11–9–22; 8:45 am]

BILLING CODE 7515–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings; Audit Committee Meeting

TIME & DATE: 11:30 a.m., Friday, November 18, 2022.

PLACE: Via Conference Call.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Committee Meeting.

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b (c)(2) and (4) permit closure of the following portion(s) of this meeting:

- Executive Session

Agenda

I. CALL TO ORDER
II. Sunshine Act Approval of Executive (Closed) Session
III. Executive Session with Chief Audit Executive
IV. FY23 Internal Audit Plan and Risk Assessment
V. Network Disaffiliation
VI. Proposal to Cancel Covid 19: Return to Office
VII. Proposal to Defer Projects to FY23
- Identify Access Management
- Third-Party Vendor Management—Gappify Post Implementation Review

VIII. Internal Audit Status Reports
a. Internal Audit Reports Awaiting Management's Response
- Procurement—Professional & Vendor Service Contracts that are equal to or less than 20K (FY22)

b. Internal Audit Performance Scorecard
c. Implementation of Internal Audit Recommendations
d. Dependent on other IT Project Management (IAM)
IX. Adjournment

CONTACT PERSON FOR MORE INFORMATION: Lakeyia Thompson, Special Assistant, (202) 524–9940; *Lthompson@nw.org.*

Lakeyia Thompson,

Special Assistant.

[FR Doc. 2022–24679 Filed 11–8–22; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–608; NRC–2021–0140]

SHINE Medical Technologies, LLC; SHINE Medical Isotope Production Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) regarding the SHINE Medical Technologies, LLC (SHINE, the licensee) request to amend Construction Permit No. CPMIF–001 for the SHINE Medical Isotope Production Facility (SHINE facility) in Rock County, Wisconsin. The amendment request seeks, in part, NRC approval to extend the latest date for completion of the construction of the SHINE facility from December 31, 2022, to December 31, 2025.

DATES: The EA and FONSI referenced in this document are available on November 10, 2022.

ADDRESSES: Please refer to Docket ID NRC–2021–0140 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0140. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and order 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: Michael Balazik, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2856; email: *Michael.Balazik@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an amendment to Construction Permit No. CPMIF–001, issued to SHINE for the construction of the SHINE facility in Rock County, Wisconsin. SHINE requested the amendment by letter dated April 1, 2022, in accordance with section 50.90 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Application for amendment of license, construction permit, or early site permit,'' and 10 CFR 50.33, ''Contents of applications; general information.'' The amendment would extend the latest date for completion of the construction of the SHINE facility from December 31, 2022, to December 31, 2025.

In accordance with 10 CFR 51.21, ''Criteria for and identification of licensing and regulatory actions requiring environmental assessments,'' the NRC prepared an EA, pursuant to 10 CFR 51.30, ''Environmental assessment,'' that analyzes the environmental impacts of the proposed amendment and alternatives as appropriate. Based on the results of this EA, which is set forth in Section II in this document, and in accordance with 10 CFR 51.31(a), the NRC has determined not to prepare an environmental impact statement for the proposed amendment and is issuing a FONSI, which is set forth in Section III in this document.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would amend Construction Permit No. CPMIF–001 to extend the latest date for completion of the construction of the SHINE facility from December 31, 2022, to December 31, 2025. The proposed action is requested in the licensee's application dated April 1, 2022.

The proposed action would not allow any work to be performed that is not already authorized by the construction permit. The proposed action would grant SHINE more time to complete the construction of the SHINE facility in accordance with the construction permit.

Need for the Proposed Action

SHINE completed a review of the construction schedule for the SHINE facility and determined that construction will not be completed by December 31, 2022, the latest date for completion of the construction of the SHINE facility prescribed by the construction permit. SHINE stated that developmental effort delays have occurred due to the first-of-a-kind nature of the SHINE facility. Furthermore, the COVID–19 public health emergency slowed efforts related to obtaining the workforce and equipment resources needed to procure and install the necessary process equipment to complete facility construction. SHINE now expects the construction of the SHINE facility to be substantially completed in May 2023 and the remaining uncompleted items of construction completed by August 2025. To accommodate this construction schedule and to incorporate conservatism, SHINE is requesting to extend the latest date for completion of the construction of the SHINE facility to December 31, 2025.

The NRC regulation in 10 CFR 50.55(b) states that upon good cause shown, the Commission will extend the completion date for a reasonable period of time and that the Commission will recognize, among other things, ''developmental problems attributable to the experimental nature of the facility or fire, flood, explosion, strike, sabotage, domestic violence, enemy action, an act of the elements, and other acts beyond the control of the permit holder,'' as a basis for extending the completion date.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental review of the proposed action and concludes that there are no significant environmental impacts associated with the proposed action.

The proposed action would only extend the period of construction activities already authorized by the construction permit and would not authorize any new construction activities, any additional land disturbance, or any modifications to the facility from the terms in the construction permit.

In 2015, the NRC evaluated the environmental impacts associated with constructing, operating, and decommissioning the SHINE facility in

NUREG–2183, ''Environmental Impact Statement for the Construction Permit for the SHINE Medical Radioisotope Production Facility.'' NUREG–2183 concluded that the environmental impacts associated with the construction of the SHINE facility would be SMALL for all resource areas with the exception of traffic, which would incur MODERATE impacts. In 2022, the NRC issued NUREG–2183, Supplement 1, ''Environmental Impact Statement Related to the Operating License for the SHINE Medical Isotope Production Facility: Draft Report for Comment,'' which updates NUREG–2183 and only covers matters that differ from those or that reflect significant new information relative to that discussed in NUREG–2183. NUREG–2183, Supplement 1 considered any different information since NUREG–2183 and concluded that there is no significant new information with respect to the environmental impacts of the SHINE facility.

In May 2019, SHINE commenced site-preparation work and NRC-authorized construction of the exterior of the SHINE facility. SHINE completed the construction of the main production facility building in March 2021. Therefore, most of the construction impacts discussed in NUREG–2183 and NUREG–2183, Supplement 1 have already occurred. The proposed action would not result in additional worker vehicles, additional truck deliveries, new land disturbance, new construction, or modification of the SHINE facility from what was previously assessed in NUREG–2183 and NUREG–2183, Supplement 1. No changes to the facility's Wisconsin Pollutant Discharge Elimination System permit are needed. There would be no changes to the types or quantity of non-radiological effluents previously assessed in NUREG–2183 and NUREG–2183, Supplement 1. The proposed action would not represent a change in the types or quantity of radioactive materials in effluents, wastes, and products of the SHINE facility. SHINE continues to be required to comply with occupational dose limits for adults (10 CFR part 20, subpart C) and radiation dose limits for individual members of the public (10 CFR part 20, subpart D) at all times. The proposed action would not have a significant adverse effect on the probability of an accident occurring. Since the proposed action would only extend the period of already authorized construction activities, it does not involve any different impacts or significant changes to those impacts described and analyzed in the previous environmental documents. Therefore, there would be no significant non-radiological or radiological environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the amendment request would result in the licensee being unable to complete construction and begin operation of the SHINE facility. However, because the direct impacts on land use and water resources from construction have largely already occurred and because the remaining construction, operating, and decommissioning impacts would generally be small as evaluated in NUREG–2183 and NUREG–2183, Supplement 1, the environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

There are no unresolved conflicts concerning alternative uses of available resources under the proposed action. The proposed action does not involve the use of any resources not previously considered in NUREG–2183 and NUREG–2183, Supplement 1.

Agencies and Persons Consulted

No additional agencies or persons were consulted regarding the environmental impact of the proposed action. On October 11, 2022, the NRC notified the Wisconsin Department of Health Services of the EA and FONSI. The state provided no comments. The NRC staff determined that the proposed action would have no effect on Federally listed threatened or endangered species or critical habitat that could occur on or near the SHINE facility site and would have no effect on any historic properties. Therefore, consultation was not required under section 7 of the Endangered Species Act of 1973, as amended, or under section 106 of the National Historic Preservation Act of 1966, as amended.

III. Finding of No Significant Impact

The proposed action is the issuance of an amendment to SHINE Construction Permit No. CPMIF–001 to extend the latest date for completion of the construction of the SHINE facility from December 31, 2022, to December 31, 2025. Consistent with 10 CFR 51.21, the NRC prepared an EA to determine the impacts of the proposed action. On the basis of the EA included in Section II in this document and incorporated by reference in this finding, the NRC concludes that the proposed action would not have a significant adverse effect on the probability of an accident occurring and would not have any significant radiological or non-radiological impacts. Therefore, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Other than the application dated April 1, 2022, the related environmental documents are NUREG–2183, ''Environmental Impact Statement for the Construction Permit for the SHINE Medical Radioisotope Production Facility,'' and NUREG–2183, Supplement 1, ''Environmental Impact Statement Related to the Operating License for the SHINE Medical Isotope Production Facility: Draft Report for Comment,'' which provide the latest environmental review of the construction, operation, and decommissioning of the SHINE facility and description of the environmental conditions at the SHINE facility site.

This EA and FONSI and other related documents are accessible online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1–800–397–4209 or 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

IV. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document	ADAMS accession No.
NUREG–2183, ''Environmental Impact Statement for the Construction Permit for the SHINE Medical Radioisotope Production Facility,'' dated October 2015.	ML15288A046.
NUREG–2183, Supplement 1, ''Environmental Impact Statement Related to the Operating License for the SHINE Medical Isotope Production Facility: Draft Report for Comment,'' dated June 2022.	ML22179A346.

Document	ADAMS accession No.
Construction Permit No. CPMIF–001 for the SHINE Medical Isotope Production Facility, dated February 29, 2016	ML16041A471.
SHINE Medical Technologies, LLC, ''Request to Amend Construction Permit No. CPMIF–001,'' dated April 1, 2022	ML22091A093.

Dated: November 4, 2022.

For the Nuclear Regulatory Commission.

Joshua M. Borromeo,

Chief, Non-Power Production and Utilization Facility Licensing Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–24488 Filed 11–9–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143–LA; ASLBP No. 23–976–01–LA–BD02]

Nuclear Fuel Services, Inc.; Establishment of Atomic Safety and Licensing Board

Pursuant to the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Nuclear Fuel Services, Inc. (License Amendment Application)

Nuclear Fuel Services, Inc. seeks to amend special nuclear materials license number SNM–124 to provide uranium purification and conversion services pursuant to a contract with the National Nuclear Security Administration, U.S. Department of Energy. In response to a notice published in the **Federal Register** announcing the opportunity to request a hearing, *see* 87 FR 53,507 (Aug. 31, 2022), Terry Lodge filed a hearing request on behalf of Erwin Citizens Awareness Network on October 31, 2022.

The Board is comprised of the following Administrative Judges:

G. Paul Bollwerk, III, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

William J. Froehlich, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Sue H. Abreu, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, 10 CFR 2.302.

Rockville, Maryland.

Dated: November 7, 2022.

Edward R. Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2022–24603 Filed 11–9–22; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB No. 3206–0268]

Agency Information Collection Activities; Submission for Review: RI 20–126, Certification of Qualifying District of Columbia Service

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR) without change, RI 20–126, Certification of Qualifying District of Columbia Service under Section 1905 of Public Law 111–84 (OMB No. 3206–0268).

DATES: Comments are encouraged and will be accepted until December 12, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *http://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 or fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0268) was previously published in the **Federal Register** on May 27, 2022, at 87 FR 32203, allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 20–126, ''Certification of Qualifying District of Columbia Service Under Section 1905 of Public Law 118–84,'' is used to certify that an employee performed certain service with the District of Columbia (DC) that qualifies under 5 U.S.C. 8332, note, for determining retirement eligibility. However, this service cannot be used in the computation of a Civil Service Retirement System (CSRS) or Federal Employees' Retirement System (FERS) retirement benefit.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Certification of Qualifying District of Columbia Service under Section 1905 of Public Law 111–84.

OMB Number: 3206–0268.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 1,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 500.

U.S. Office of Personnel Management.

Kellie Cosgrove Riley,

Director, Office of Privacy and Information Management.

[FR Doc. 2022–24547 Filed 11–9–22; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–34 and CP2023–33]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 15, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–34 and CP2023–33; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 79 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 4, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* November 15, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–24564 Filed 11–9–22; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 3, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 78 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–33, CP2023–32.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–24501 Filed 11–9–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 4, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 79 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–34, CP2023–33.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–24492 Filed 11–9–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 1, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 224 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–31, CP2023–30.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–24491 Filed 11–9–22; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96241; File No. SR–FINRA–2022–030]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend Temporary Supplementary Material .17 (Temporary Relief To Allow Remote Inspections for Calendar Years 2020 and 2021, and Through December 31 of Calendar Year 2022) Under FINRA Rule 3110 (Supervision)

November 4, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing to extend temporary Supplementary Material .17 (Temporary Relief to Allow Remote Inspections for Calendar Years 2020 and 2021, and Through December 31 of Calendar Year 2022) under FINRA Rule 3110 (Supervision) to include calendar year 2023 inspection obligations through the earlier of the effective date of the pilot program proposed in File No. SR–FINRA–2022–021, if approved, or December 31, 2023 within the scope of the supplementary material.[4] The proposed extension of Rule 3110.17 would alleviate the ongoing operational challenges resulting from the COVID–19 pandemic that many member firms may continue to face in planning for and timely conducting the on-site inspection component of Rule 3110(c) (Internal Inspections) at locations requiring inspection in calendar year 2023.[5]

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

3000. SUPERVISION AND RESPONSIBILITES RELATING TO ASSOCIATED PERSONS

3100. SUPERVISORY RESPONSIBILITIES

3110. Supervision

(a) through (f) No Change.

• • • Supplementary Material: ----------

.01 through .16 No Change.

.17 Temporary Relief to Allow Remote Inspections for Calendar Years 2020, [and] 2021, *2022,* and [Through December 31 of Calendar Year 2022]*2023.*

(a) Use of Remote Inspections. Each member obligated to conduct an inspection of an office of supervisory jurisdiction, branch office or non-branch location in *the* calendar years [2020, 2021 and 2022]*specified in this supplementary material* pursuant to, as applicable, paragraphs (c)(1)(A), (B) and (C) under Rule 3110 may, subject to the requirements of this Rule 3110.17, satisfy such obligation by conducting the applicable inspection remotely, without an on-site visit to the office or location. In accordance with Rule 3110.16, inspections for calendar year 2020 must be completed on or before March 31, 2021. [and] [i]*I*nspections for calendar year 2021 must be completed on or before December 31, 2021 *and inspections for calendar year 2022 must be completed on or before December 31, 2022.* With respect to a member's obligation to conduct an inspection of an office or location in calendar year [2022]*2023,* a member has the option to conduct those inspections remotely through *the earlier of the effective date of the pilot program proposed in File No. SR–FINRA–2022–021, if approved, or* December 31, [2022]*2023.* Notwithstanding Rule 3110.17, a member shall remain subject to the other requirements of Rule 3110(c).

(b) Written Supervisory Procedures for Remote Inspections. Consistent with a member's obligation under Rule 3110(b)(1), a member that elects to conduct its inspections remotely for any of the calendar years specified in this supplementary material must amend or supplement its written supervisory procedures to provide for remote inspections that are reasonably designed to assist in detecting and preventing violations of and achieving compliance with applicable securities laws and regulations, and with applicable FINRA rules. Reasonably designed procedures for conducting remote inspections of offices or locations should include, among other things: (1) a description of the methodology, including

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See infra* note 15, and accompanying text for further discussion of the pilot program proposed in File No. SR–FINRA–2022–021. The proposed rule change will automatically sunset on the earlier of the effective date of SR–FINRA–2022–021, if approved, or December 31, 2023. FINRA will submit a separate rule filing if it seeks to extend the duration of the temporary proposed rule beyond December 31, 2023.

[5] SEC staff and FINRA have stated in guidance that inspections must include a physical, on-site review component. *See* SEC National Examination Risk Alert, Volume I, Issue 2 (November 30, 2011) and *Regulatory Notice* 11–54 (November 2011) (joint SEC and FINRA guidance stating, a ''broker-dealer must conduct on-site inspections of each of its office locations; [OSJs] and non-OSJ branches that supervise non-branch locations at least annually, all non-supervising branch offices at least every three years; and non-branch offices periodically.'') (footnote defining an OSJ omitted). *See also* SEC Division of Market Regulation, Staff Legal Bulletin No. 17: Remote Office Supervision (March 19, 2004) (stating, in part, that broker-dealers that conduct business through geographically dispersed offices have not adequately discharged their supervisory obligations where there are no on-site routine or ''for cause'' inspections of those offices).

technologies permitted by the member, that may be used to conduct remote inspections; and (2) the use of other risk-based systems employed generally by the member firm to identify and prioritize for review those areas that pose the greatest risk of potential violations of applicable securities laws and regulations, and of applicable FINRA rules.

(c) Effective Supervisory System. The requirement to conduct inspections of offices and locations is one part of the member's overall obligation to have an effective supervisory system and therefore, the member must continue with its ongoing review of the activities and functions occurring at all offices and locations, whether or not the member conducts inspections remotely. A member's use of a remote inspection of an office or location will be held to the same standards for review as set forth under Rule 3110.12. Where a member's remote inspection of an office or location identifies any indicators of irregularities or misconduct (*i.e.,* ''red flags''), the member may need to impose additional supervisory procedures for that office or location or may need to provide for more frequent monitoring of that office or location, including potentially a subsequent physical, on-site visit on an announced or unannounced basis when the member's operational difficulties associated with COVID–19 abate, nationally or locally as relevant, and the challenges a member is facing in light of the public health and safety concerns make such on-site visits feasible using reasonable best efforts. The temporary relief provided by this Rule 3110.17 does not extend to a member's inspection requirements beyond *the earlier of the effective date of the pilot program proposed in File No. SR–FINRA–2022–021, if approved, or* December 31, [2022]*2023,* and such inspections must be conducted in compliance with Rule 3110(c).

(d) Documentation Requirement. A member must maintain and preserve a centralized record for [each of calendar years 2020 and 2021] *the calendar years specified in this supplementary material*[, and for calendar year 2022 through December 31, 2022] that separately identifies: (1) all offices or locations that had inspections that were conducted remotely; and (2) any offices or locations for which the member determined to impose additional supervisory procedures or more frequent monitoring, as provided in Rule 3110.17(c). A member's documentation of the results of a remote inspection for an office or location must identify any additional supervisory procedures or more frequent monitoring for that office or location that were imposed as a result of the remote inspection.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

In response to the COVID–19 global health crisis and the corresponding need to restrict in-person activities, FINRA provided temporary relief to member firms from certain regulatory requirements, including those set forth under Rule 3110. To help alleviate the attendant logistical challenges member firms were encountering to satisfy the on-site inspection component of their Rule 3110(c) requirements, FINRA adopted Rule 3110.16 (Temporary Extension of Time to Complete Office Inspections) to extend the time by which member firms were required to complete their calendar year 2020 inspection obligations under Rule 3110(c) to March 31, 2021 with the expectation that the extension did not relieve firms from the on-site portion of the inspections of their offices and locations.[6] However, health and safety concerns remained unabated and with many restrictive measures still in place as calendar year 2020 was ending, FINRA adopted Rule 3110.17 to provide member firms the option, subject to specified requirements under the supplementary material, to complete remotely their calendar year inspection obligations without an on-site visit to the office or location.[7] This relief has been extended and currently, Rule 3110.17 is set to automatically sunset on December 31, 2022.[8]

Even though it has been more than two years since the World Health Organization declared COVID–19 a pandemic,[9] member firms' in-person staff requirements, which were first developed in response to COVID–19-related health concerns, have remained in flux. This reflects, in part, ongoing staff health concerns; according to the CDC, the number of new deaths from COVID–19 in the United States in September 2022 ranged from approximately 2,900 to 3,200 deaths per week,[10] and approximately 20 percent of counties in the United States have a medium or high COVID–19 Community Level based on the CDC's most recent calculations.[11] While CDC guidance on managing the risks related to COVID–19 has become more streamlined,[12] dissimilar vaccination rates through the U.S.[13] and the uncertainty about whether there will be a significant increase in the number of COVID–19 cases in light of the presence of COVID–19 variants, including Omicron and its lineages,[14] continues to raise staff health concerns, particularly with regard to inspections of their home activities.

As year 2022 is in its fourth quarter, firms need to establish their inspection

[6] *See* Securities Exchange Act Release No. 89188 (June 30, 2020), 85 FR 40713 (July 7, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–019).

[7] *See* Securities Exchange Act Release No. 90454 (November 18, 2020), 85 FR 75097 (November 24, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–040).

[8] *See* Securities Exchange Act Release No. 93002 (September 15, 2021), 86 FR 52508 (September 21, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2021–023); and Securities Exchange Act Release No. 94018 (January 20, 2022), 87 FR 4072 (January 26, 2022) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2022–001).

[9] *See* Centers for Disease Control and Prevention (''CDC''), International Classification of Diseases, Tenth Revision, Clinical Modification, *https://www.cdc.gov/nchs/data/icd/Announcement-New-ICD-code-for-coronavirus-3-18-2020.pdf. See also* WHO Director-General, Opening Remarks at the Media Briefing on COVID–19 (March 11, 2020), *https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020.*

[10] *See* CDC, COVID Data Tracker—Trends in Number of COVID–19 Cases and Deaths in the US Reported to CDC, by State/Territory, *https://covid.cdc.gov/covid-data-tracker/#trends_weeklydeaths_select_00* (last visited October 27, 2022).

[11] *See* CDC, COVID Data Tracker—COVID–19 Integrated County View, *https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=all_states&data-type=CommunityLevels* (last visited October 27, 2022).

[12] *See generally* CDC Press Release, CDC streamlines COVID–19 guidance to help the public better protect themselves and understand their risk, *https://www.cdc.gov/media/releases/2022/p0811-covid-guidance.html* (August 11, 2022).

[13] A state-by-state comparison of vaccination rates is available at *https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-people-additionaldose-totalpop.*

[14] Variants of concern include BA.5, BA.4.6, and BQ.1.1, among others. *See* CDC, COVID Data Tracker—Variant Proportions, *https://covid.cdc.gov/covid-data-tracker/#variant-proportions* (last visited October 27, 2022).

schedules for calendar year 2023 and ensure there is adequate, experienced staff available to travel and conduct on-site inspections safely within the context of fluid work locations. This situation presents complexity for many firms in terms of planning and deploying resources. Even with increased availability of vaccines, FINRA understands that many firm personnel are still working at least part time from alternative work locations (*e.g.,* private residences), while taking incremental steps to resume in-person activities in some fashion amid the current environment. With these considerations alone, FINRA believes there is a continued need for temporary relief beyond December 31, 2022.

FINRA has also filed with the Commission File No. SR–FINRA–2022–021, a proposed rule change to adopt a voluntary, remote inspections pilot program that is currently pending Commission review. The review period may extend well into 2023.[15] Given the potential length of that review period, and the pilot program's significant planning requirements and varying limitations applicable to specific firms and office locations, FINRA believes that firms that intend to participate in the pilot program, if approved, will need a significant number of months to prepare appropriately for the pilot program. Moreover, further FINRA guidance may be needed to guide implementation in various circumstances.[16] Firms that are not eligible, or do not intend, to participate in the pilot program, if approved, will also need the time to make any operational adjustments to schedule and conduct the on-site component of their upcoming inspections once Rule 3110.17 expires on the effective date of the pilot program, which could come before December 31, 2023. For these reasons, and to avoid overlapping provisions, under the proposed rule change herein, temporary Rule 3110.17 would expire on the earlier of the effective date of the pilot program proposed in File No. SR–FINRA–2022–021 or December 31, 2023.[17] If the Pilot Proposal is not approved, member firms should use the time provided in proposed Rule 3110.17 to prepare to fulfill their Rule 3110(c) obligations through on-site inspections of their offices and locations.[18]

In sum, proposed Rule 3110.17 would avoid a potential lapse in the temporary relief while challenges from COVID–19 persist, provide firms regulatory continuity in meeting their inspection obligations during the remaining Commission review period of the Pilot Proposal, and allow firms time to adapt to the pilot program, if approved, and prepare for conducting on-site inspections, as applicable.

FINRA is not proposing to amend the other conditions of the temporary rule. The current conditions of the supplementary material for firms that elect to conduct remote inspections would remain unchanged: such firms must amend or supplement their written supervisory procedures for remote inspections, use remote inspections as part of an effective supervisory system, and maintain the required documentation. FINRA continues to believe this temporary remote inspection option is a reasonable alternative to provide to firms to fulfill their Rule 3110(c) obligations under current conditions while the Commission considers the Pilot Proposal. This extension is designed to maintain the investor protection objectives of the inspection requirements under these circumstances. Firms should consider whether, under their particular operating conditions, reliance on remote inspections would be reasonable under the circumstances. For example, firms with offices that are open to the public or that are otherwise doing business as usual should consider whether some in-person inspections would be feasible and add value to the firms' supervisory program.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing to make the proposed rule change operative on January 1, 2023.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[19] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In recognition of the ongoing impact of COVID–19 on performing the on-site inspection component of Rule 3110(c), the proposed rule change is intended to continue providing firms a temporary regulatory option to conduct inspections of offices and locations remotely during calendar year 2023. This temporary proposed supplementary material does not relieve firms from meeting the core regulatory obligation to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules that directly serve investor protection. With the ongoing staffing challenges resulting from the lingering COVID–19 pandemic, FINRA believes that the proposed rule change provides sensibly tailored relief, while continuing to serve and promote the protection of investors and the public interest. In addition, the extended time would give firms clarity around their Rule 3110(c) inspection obligations pending the Commission's review of the Pilot Proposal.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The potential economic impacts of Rule 3110.17 as described in File No. SR–FINRA–2020–040 continue to have applicability to the proposed rule change herein. The proposed rule change would extend the temporary relief that provides firms with the option to fulfill their inspection obligations remotely. The proposed extension would include calendar year 2023 inspection obligations through the earlier of the effective date of the pilot program proposed in File No. SR–FINRA–2022–021, if approved, or December 31, 2023 within the scope of the supplementary material without making substantive changes to the other aspects of the provision. In addition, the proposed temporary extension would avoid a potential lapse in temporary relief while the Pilot Proposal is pending Commission action. Further, the

[15] On July 28, 2022, FINRA filed a proposed rule change to adopt proposed Supplementary Material .18 under Rule 3110 that would set forth the terms of a voluntary, three-year remote inspections pilot program to allow member firms to elect to fulfill their obligation under Rule 3110(c) by conducting inspections of some or all branch offices and locations remotely without an on-site visit to such office or location. *See* Securities Exchange Act Release No. 95452 (August 9, 2022), 87 FR 50144 (August 15, 2022) (Notice of Filing of File No. SR–FINRA–2022–021) (''Pilot Proposal''). The Pilot Proposal is currently pending Commission review and under Section 19(b)(2) of the Exchange Act, the last day for the Commission to issue an order of approval or disapproval of File No. SR–FINRA–2022–021 is April 12, 2023. *See* 15 U.S.C. 78s(b)(2).

[16] As part of the implementation of the remote inspections pilot program, FINRA intends to publish a *Regulatory Notice* or other guidance about the operational aspects of the pilot program.

[17] Proposed Rule 3110.18 would expressly provide that if Rule 3110.17 has not already expired by its own terms, it would automatically sunset on the effective date of the pilot program. *See* Pilot Proposal.

[18] *See* note 5, *supra.*

[19] 15 U.S.C. 78*o*–3(b)(6).

proposed extension would provide regulatory certainty while firms continue to manage health and safety concerns, work absences, and the transition to new workforce arrangements. FINRA believes that this limited extension in temporary relief, together with the requirements for using the temporary relief in Rule 3110.17, would not diminish investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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 [20] and Rule 19b–4(f)(6) thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2022–030 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–FINRA–2022–030. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2022–030 and should be submitted on or before December 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24509 Filed 11–9–22; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96242; File No. SR–NYSEARCA–2022–31]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Amend Rule 6.64P–O

November 4, 2022.

I. Introduction

On May 20, 2022, NYSE Arca, Inc. (''Exchange'' or ''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 modify NYSE Arca Rule 6.64P–O regarding the automated process for both opening and reopening trading in a series on the Exchange's Pillar trading platform, as described below. The proposed rule change was published for comment in the **Federal Register** on May 27, 2012.[3] On June 24, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed change.[5] On August 23, 2022, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.[7] On October 25, 2022, the Exchange filed Amendment No. 1 to the proposed rule change,[8] and on October 27, 2022, the Exchange filed Amendment No. 2 to the proposed rule change,[9] which replaced and superseded in their entirety both the original filing and Amendment No. 1. The Commission has received no comments on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 94959 (May 23, 2022), 87 FR 32203 (May 27, 2022).

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 95150 (Jun. 24, 2022), 87 FR 39141 (Jun. 30, 2022).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 95581 (Aug. 23, 2022), 87 FR 52827 (Aug. 29, 2022).

[8] Amendment No. 1 is available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/rule-filings/filings/2022/SR-NYSEArca-2022-31_Am._1.pdf.*

[9] Amendment No. 2 is available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/rule-filings/filings/2022/SR-NYSEArca-2022-31_Am._2.pdf.*

The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

II. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 2

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Rule 6.64P–O regarding the automated process for both opening and reopening trading in a series on the Exchange on Pillar as set forth below.[10] This Amendment No. 2 supersedes and replaces Amendment No. 1 to the original filing in its entirety.[11]

Current Pillar Auction Process

Rule 6.64P–O(d) sets forth the Auction Process.[12] Per Rule 6.64P–O(d)(1), once the Exchange receives the Auction Trigger for a series,[13] the Auction Process begins and the Exchange sends a Rotational Quote[14] to both OPRA and proprietary data feeds indicating that the Exchange is in the process of transitioning from a pre-open state to continuous trading for that series.

Per Rule 6.64P–O(d)(2), once a Rotational Quote has been sent, the Exchange conducts an Auction,[15] provided ''there is both a Legal Width Quote and, if applicable, Market Maker quotes with a non-zero offer in the series'' within the Opening Timer(s), per Rule 6.64P–O(d)(3).[16] The Exchange deems the Legal Width Quote requirement satisfied if the Calculated NBBO (described below) for the series is uncrossed, contains a non-zero offer, and has a spread that does not exceed a maximum differential that is determined by the Exchange on a class basis and announced by Trader Update.[17] The Calculated NBBO is comprised of the highest bid and lowest offer among all Market Maker quotes and the ABBO during the Auction Process.[18] A Calculated NBBO does not require both Market Maker quotes and ABBO to be present, and may be composed of Market Maker quotes only, of the ABBO only, or a combination thereof.

If the foregoing requirements are met (*i.e.,* per Rule 6.64P–O(d)(2)), the Exchange will conduct an Auction that will either result in a trade or in a quote depending on whether there is (or is not) Matched Volume[19] that can trade at or within the Auction Collars.[20] If there is Matched Volume that can trade at or within the Auction Collars, the Auction will result in a trade at the Indicative Match Price.[21] However, if there is no Matched Volume that can trade at or within the Auction Collars, the Auction Process will instead result in a quote and the Exchange transitions to continuous trading as set forth in Rule 6.64P–O(f).[22]

Finally, per Rule 6.64P–O(d)(4), unless otherwise specified by Trader Update, for the first ninety seconds of the Auction Process (inclusive of the thirty-second Opening MMQ Timer(s)), if there is no Legal Width Quote, the Exchange will not conduct an Auction, even if there is Matched Volume, *i.e.,* the series will not open (hereinafter referred to as the ''initial Auction Process time period,'' as described further below). After the initial Auction Process time period, if there is no Matched Volume and the Calculated NBBO is wider than the Legal Width Quote, is not crossed, and does not contain a zero offer, the Exchange will first cancel any Market Orders and MOO Orders and then transition the option series to continuous trading per Rule 6.64P–O(f).[23] The Exchange, however, will not open a series and such series will remain unopened until the earlier of (i) a Legal Width Quote is established and an Auction can be conducted; (ii) the series can be opened as provided for in paragraph (d)(4)(A) (*i.e.,* there is no Matched Volume and the Calculated NBBO is uncrossed and has a non-zero offer); (iii) the series is halted; or (iv) the end of Core Trading Hours.[24] In other words, a series that does not meet the requirements of Rule 6.64P–O(d)(4)(A) may be delayed in opening until one of the conditions set forth in Rule 6.64P–O(d)(4)(B) occur.

[10] Rule 6.64P–O (the ''Pillar Rule'') covers the opening and reopening of option series, which process is identical on the Pillar trading platform. As such, the Exchange will simply refer to the ''opening'' of a series herein. The Exchange completed its migration to Pillar on July 28, 2022, as announced here: *https://www.nyse.com/trader-update/history#110000440092.*

[11] This Amendment No. 2 updates information regarding the Exchange's completed migration to Pillar and substantively modifies the original filing as follows: (i) proposing additional discretion for the Exchange to establish what constitutes a Legal Width Quote during the Auction Process (ii) adopting a defined term of ''initial Auction Process time period''; (iii) adopting functionality to cancel, rather than execute in the Auction, certain Limit Orders after the ''initial Auction Process time period'' has elapsed; (iv) providing the Exchange discretion to modify by Trader Update the timing for dissemination of Auction Imbalance Information; and (v) removing the specified values for time periods that the Exchange has discretion to modify by Trader Update (*i.e.,* MMQ Opening Timers).

[12] ''Auction Process'' refers to the process that begins when the Exchange receives an Auction Trigger for a series and ends when the Auction is conducted. *See* Rule 6.64P–O(a)(5).

[13] ''Auction Trigger'' refers to the information disseminated by the Primary Market in the underlying security that triggers the Auction Process for a series to begin. *See* Rule 6.64P–O(a)(7).

[14] ''Rotational Quote'' refers to the highest Market Maker bid and lowest Market Maker offer on the Exchange when the Auction Process begins and such Rotational Quote will be updated (for price and size) during the Auction Process. *See* Rule 6.64P–O(a)(13).

[15] ''Auction'' refers to the opening or reopening of a series for trading either with or without a trade. *See* Rule 6.64P–O(a)(1).

[16] *See* Rule 6.64P–O(d)(2). Rule 6.64P–O(d)(3) specifies the parameters of the Opening MMQ Timers, which are designed to encourage (but not require) any Market Maker(s) assigned to an option series to submit Legal Width Quotes in connection with the Auction Process. The Exchange proposes a non-substantive change of ''30'' to ''thirty'' regarding the Opening MMQ Timer(s), which would add clarity and internal consistency to the rule. *See* proposed Rule 6.64P–O(d)(3).

[17] *See* Rule 6.64P–O(a)(10)(A)–(C). The maximum spread differential for a given series or class of options may be modified by a Trading Official. *See* Rule 6.64P–O(a)(10)(C).

[18] *See* Rule 6.64P–O(a)(8) (defining Calculated NBBO).

[19] ''Matched Volume'' refers to the number of buy and sell contracts that can be matched at the Indicative Match Price, excluding IO Orders. *See* Rule 6.64P–O(a)(11). An Imbalance Offset Order (''IO Order'') is a Limit Order that is to be traded only in an Auction. *See* Rule 6.62P–O(c)(3).

[20] ''Auction Collar'' refers to the price collar thresholds for the Indicative Match Price for an Auction, with the upper Auction Collar being the offer of the Legal Width Quote and the lower Auction Collar being the bid of the Legal Width Quote, provided that if the bid of the Legal Width Quote is zero, the lower Auction Collar will be one MPV above zero for the series. And, if there is no Legal Width Quote, the Auction Collars will be published in the Auction Imbalance Information as zero. *See* Rule 6.64P–O(a)(2).

[21] *See* Rule 6.64P–O(d)(2)(A). ''Indicative Match Price'' refers to the price at which the maximum number of contracts can be traded in an Auction, including the non-displayed quantity of Reserve Orders and excluding IO Orders, subject to the Auction Collars. If there is no Legal Width Quote, the Indicative Match Price included in the Auction Imbalance Information will be calculated without Auction Collars. *See* Rule 6.64P–O(a)(9).

[22] *See* Rule 6.64P–O(d)(2)(B).

[23] *See* Rule 6.64P–O(d)(4)(A).

[24] *See* Rule 6.64P–O(d)(4)(B).

Proposed Change to Auction Process

First, the Exchange proposes to codify existing rule text (contained in paragraph (d)(4) of the Rule) into the defined phrase the ''initial Auction Process time period'' in proposed Rule 6.64P–O(a)(5)(i).[25] As proposed, the initial Auction Process time period would mean, ''an Exchange-determined time period after the commencement of the Auction Process as specified by Trader Update.[26] Given that the Exchange has discretion to modify the ''ninety second'' time period referenced in Rule 6.64P–O(d)(4)—and has modified this time period since adopting the Pillar Rule—the Exchange proposes to remove reference to a specific time period, which would add clarity and transparency to the Auction Process.[27] Consistent with this change, the Exchange likewise proposes to modify Rule 6.64P–O(d)(3), to remove reference to ''30 seconds'' which is the default value for the length of each MMQ Opening Timer, ''[u]nless otherwise specified by Trader Update.'' [28] Given that the Exchange has modified this time period since adopting the Pillar Rule, the Exchange believes that removing reference to a specific time period would add clarity and transparency to the Auction Process.[29]

Next, the Exchange proposes to modify Rule 6.64P–O(a)(10)(C) to clarify the Exchange's discretion to determine the presence of a Legal Width Quote. Rule 6.64P–O(a)(10)(C) provides that, to be deemed a Legal Width Quote, the spread of the Calculated NBBO may not exceed a maximum differential that is determined by the Exchange on a class basis and announced by Trader Update (herein referred to as the ''Maximum Calculated NBBO Spread'').[30] The Exchange proposes to clarify that the Exchange has authority to modify the Maximum Calculated NBBO Spread during the Auction Process and that any such modifications (like the Exchange-determined Maximum Calculated NBBO Spread) would likewise be announced by Trader Update.[31] This proposed clarification, which is consistent with its existing authority under Rule 6.64P–O(a)(10), would add specificity and transparency to the Auction Process to the benefit of all market participants. The Exchange notes that other options exchanges likewise specify that their discretion to modify the opening parameters for each option series applies during the opening auction process and likewise includes the requirement that each such change is announced to their market participants.[32]

The Exchange proposes to modify Rule 6.64P–O(d)(4) to provide that, after the initial Auction Process time period has elapsed, the Exchange may open a series when the Calculated NBBO is wider than the Legal Width Quote, is not crossed, and does not contain a zero offer (the ''wide Calculated NBBO'') provided the Exchange first cancels certain interest.[33] Specifically, before the Exchange can open a series, with a quote, and transition to continuous trading (per Rule 6.64P–O(f)) based on a wide Calculated NBBO, the Exchange must first cancel Market Orders, MOO Orders, and Limit Orders to buy (sell) priced equal to or higher (lower) than the Indicative Match Price.[34] The Exchange believes that the proposed cancellation of such executable Limit Orders would help prevent executions at potentially extreme prices. Consistent with this change, the Exchange proposes to add a caveat to Rule 6.64P–O(d)(2)(A)—which provides for the trading of certain executable interest at the Indicative Match Price—to make clear that the trading behavior set forth in this provision is subject to proposed Rule 6.64P–O(d)(4).[35] Although the functionality set forth in Rule 6.64P–O(d) is designed to allow the affected series to open on a quote (and not a trade), the Exchange acknowledges the possibility that such series may open on a trade because orders or quotes may arrive as the Exchange is evaluating trading interest and whether such interest qualifies as a Legal Width Quote.[36]

The proposed cancellation of Market Orders and MOO Orders before opening a series is consistent with the current Pillar Rule and thus would continue to protect Market Orders and MOO Orders from being executed before transitioning to continuous trading, per paragraph (f) of the Pillar Rule when there is a wide Calculated NBBO.[37] The proposed cancellation of Limit Orders to buy (sell) priced equal to or higher (lower) than the Indicative Match Price, is new. The Indicative Match Price refers to the opening price for a series and represent the price at which the maximum number of contracts can be traded in an Auction. Thus, the proposal to cancel Limit Orders to buy (sell) priced equal to or higher (lower) than the Indicative

[25] *See* Rule 6.64P–O(d)(4) (providing that ''[u]nless otherwise specified by Trader Update, for the first ninety seconds of the Auction Process . . . .'' and ''[n]inety seconds after the Auction Process begins:''). Consistent with the proposed defined term of ''initial Auction Process time period,'' the Exchange proposes to remove the references to ninety (90) seconds.

[26] *See* proposed Rule 6.64P–O(a)(5)(i) (defining ''initial Auction Process time period'').

[27] On August 19, 2002 [sic], the Exchange announced by Trader Update that, effective August 22, 2022, ''the Exchange will reduce the time period after the start of the Auction Process when the Exchange may open a series on a quote without requiring a Legal Width Quote (provided there is no crossing interest) to 15 seconds, from the current 90 seconds,'' *available here: https://www.nyse.com/trader-update/history#110000462552* (the ''Opening Timer Update'').

[28] *See* proposed Rule 6.64P–O(d)(3) (providing that ''[e]ach Opening MMQ Timer will be an Exchange-determined period that is announced by Trader Update'').

[29] *See* Opening Timer Trader Update, *supra* note 27 (announcing that, effective August 22, 2022, each Opening MMQ Timer will be reduced to 5 seconds, from the current value of 30 seconds). The Exchange proposes the non-substantive change to re-organize the existing text for clarity purposes (*i.e.,* moving the clause ''[e]ach opening MMQ Timer'' to the beginning of the proposed rule). *See id.*

[30] *See* Rule 6.64P–O(a)(10)(C) (which also provides a Trading Official may establish maximum differentials for one or more series or classes of options, which differ from those established by the Exchange). To qualify as a Legal Width Quote, the Calculated NBBO must also be uncrossed and must contain a non-zero offer, which requirements are not being modified by this rule change. *See* Rule 6.64P–O(a)(10)(A)–(B).

[31] *See* proposed Rule 6.64P–O(a)(10)(C). *See* Rule 6.64P–O(a)(10)(A)–(B).

[32] *See, e.g.,* Cboe Options Exchange, Inc. (''Cboe'') Rule 5.31(a) (definitions of Maximum Composite Width and Opening Collar, each of which the exchange ''may modify during the opening auction process (which modifications the Exchange disseminates to all subscribers to the Exchange's data feeds that deliver opening auction updates)''); Cboe EDGX Options Exchange, Inc. (''EDGX'') Rule 21.7(a) (same); Cboe BZX Options Exchange, Inc. (''BZX'') Rule 21.7(a) (definitions of Maximum Composite Width and Opening Collar); Cboe C2 Exchange Inc. (''C2'') Rule 6.11(a) (same)).

[33] *See* proposed Rule 6.64P–O(d)(4). Consistent with the proposed definition of the ''initial Auction Process time period'' and its use in the proposed rule, the Exchange proposes to delete reference to ''ninety seconds'' regarding the Auction Process. *See id.*

[34] *See* proposed Rule 6.64P–O(d)(4). The Exchange proposes to re-locate the text regarding the potential race condition resulting in a trade from Rule 6.64P–O(d)(4)(A) to proposed Rule 6.64P–O(d)(4) and to replace reference to ''Auction'' with ''Auction Process'' for the sake of clarity as well as to delete current paragraph (d)(4)(A) of the Pillar Rule as obsolete because the text describing the wide Calculated NBBO is contained in proposed Rule 6.64P–O(d)(4) and the transition to continuous trading is no longer dependent upon the presence of Matched Volume under the proposed functionality. *See id.*

[35] *See* proposed Rule 6.64P–O(d)(2)(A). As is the case today—which behavior remains unchanged by proposed Rule 6.64P–O(d), the Exchange will open on a quote and transition to continuous trading (per Rule 6.64P–O(f)) in the absence of executable interest (*i.e.,* there is no Matched Volume that can trade at or within the Auction Collars). *See* Rule 6.64P–O(d)(2)(B).

[36] *See* proposed Rule 6.64P–O(d)(4) (regarding the potential race condition resulting in a trade).

[37] *See* Rule 6.64P–O(d)(4)(A)(i) (providing that Market Orders and MOO Orders are cancelled ''[a]ny time a series is opened or reopened when there is no Legal Width Quote''). The Exchange believes this proposed change is non-substantive as it simply relocates existing text in the more streamlined proposed rule.

Match Price when the Calculated NBBO is wider than the Legal Width Quote would allow the Exchange to help ensure that potentially executable Limit Orders would be cancelled rather than execute at potentially extreme prices before the Exchange transitions to continuous trading.[38] The Exchange believes that this proposed handling would likewise allow the Exchange to proceed with a timely opening of each series—which opening would have otherwise been delayed until market conditions changed per the current Pillar Rule.[39]

Because the proposed change to Rule 6.64P–O(d)(4) would allow any series that has not opened by the end of the initial Auction Process time period the ability to open on a quote based on a wide Calculated NBBO, the Exchange proposes to eliminate as unnecessary Rule 6.64P–O(d)(4)(B), which paragraph contemplates a series not being able to open because the Calculated NBBO is wider than—and thus does not qualify as—a Legal Width Quote. The Exchange believes these proposed conforming changes are necessary given that the proposed changes to Rule 6.64P–O(d)(4) render paragraph (d)(4)(B) of the Rule unnecessary.

In addition, the Exchange proposes to modify Rule 6.64P–O(c), which provides that ''Auction Imbalance Information is updated at least every second until the Auction is conducted, unless there is no change to the information,'' to authorize the Exchange to modify the time within which it updates this information and to announce any such changes by Trader Update.[40] Given the proposed change to allow the Exchange to open certain series after the initial Auction Process time period after first cancelling certain interest, the Exchange anticipates that it may not be necessary to update the Auction Imbalance Information at least every second. The Exchange seeks flexibility in the frequency for imbalance publication as it plans to monitor the impact of the proposed change after which it will be in a position to better assess the appropriate frequency for publication of the Auction Imbalance Information. In addition, this proposed discretion, which is consistent with other options exchanges, would afford the Exchange flexibility, including to respond to market conditions.[41]

Finally, the Exchange also proposes to modify the requirements to open a series during the initial Auction Process time period for option series with two or more assigned Market Makers, per Rule 6.64P–O(d)(3)(C). Per Rule 6.64P–O(d)(3)(C)(i), if there are two or more Market Makers assigned to a series, the Exchange will conduct the Auction, without waiting for the Opening MMQ Timer to end, as soon as there is both a Legal Width Quote and at least two assigned Market Makers have submitted a quote with a non-zero offer. Per Rule 6.64P–O(d)(3)(C)(ii), if at least two Market Makers assigned to a series have not submitted a quote with a non-zero offer by the end of the Opening MMQ Timer, the Exchange will begin a second Opening MMQ Timer. The Exchange proposes to modify these provisions to provide that the Exchange would require that at least two quotes with non-zero offers be submitted during the Opening MMQ Timer, which quotes may be sent by one or more Market Makers.[42]

The Exchange believes that the proposed change continues to encourage (but not require) Market Makers to participate at the open, which may increase the availability of Legal Width Quotes in more series, thereby allowing more series to open in a timely manner. The Exchange believes that expanding the opportunities for each Market Maker to enter the market—whether by each Market Maker submitting one quote or a single Market Maker submitting two quotes—could result in the depth of liquidity that market participants have come to expect in options with multiple assigned Market Makers, and a more stable trading environment. The Exchange believes the proposed rule change would provide more flexibility in terms of how market depth is achieved (*i.e.,* based on quotes from a single Market Maker as opposed to two) and may result in a more timely and efficient opening process. Further, the proposed change may increase the availability of Legal Width Quotes in more series and would add clarity and transparency to Exchange rules.

Other Exchange Rules: Proposed Non-Substantive or Clarifying Changes

The Exchange also proposes to make several clarifying or non-substantive changes to certain of its rules. First, the Exchange proposes to modify paragraph (c) of Rule 6.37–O (Obligations of Market Makers) regarding ''Unusual Conditions—Auctions'' to add an open parenthesis in the cross reference to Rule 6.64P–O(a)(10).[43] The Exchange believes this proposed change would correct an inadvertent omission and would add clarity and transparency to Exchange rules.

Next, the Exchange proposes to correct several cross-references in Rule 6.62P–O (Orders and Modifiers). The Exchange proposes to update the reference in Rule 6.62P–O(e)(3)(C)(ii) regarding Day ISO ALO Orders to correctly cross-reference paragraphs (e)(2)(C)–(F) (rather than to paragraphs (e)(2)(C)–(G)) to cover the processing of such ALO Orders once resting.[44] The proposed change would correct an inadvertent error adding clarity and transparency to Exchange rules. Similarly, the Exchange proposes to update the reference in Rule 6.62P–O(h)(6)(B) to correctly cross-reference the defined term Complex Order, which is set forth in Rule 6.62P–O(f) (rather than paragraph (e)).[45] The proposed change would correct an inadvertent error adding clarity and transparency to Exchange rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[46] in general, and furthers the

[38] The Exchange notes that ''[i]f there is no Legal Width Quote, the Indicative Match Price included in the Auction Imbalance Information will be calculated without Auction Collars.'' *See* Rule 6.64P–O(a)(9).

[39] *See, e.g.,* Rule 6.64P–O(d)(4)(A) and (B). The Exchange notes that any Auction interest that is not cancelled in series that open per proposed Rule 6.64P–O(d)(4) would be handled in the same manner as all other Auction interest that is present when the Exchange transitions from the Auction Process to continuous trading per Rule 6.64P–O(f)(1)–(3).

[40] *See* proposed Rule 6.64P–O(c) (providing that ''[u]nless otherwise provided by Trader Update, Auction Imbalance Information is updated at least every second until the Auction is conducted, unless there is no change to the information'').

[41] *See, e.g.,* Nasdaq Options Market (''NOM'') Section 8(b)(3) (providing that ''Nasdaq shall disseminate by electronic means an Order Imbalance Indicator every 5 seconds beginning between 9:20 and 9:28, or a shorter dissemination interval as established by the Exchange, with the default being set at 9:25 a.m. The start of dissemination, and a dissemination interval, shall be posted by Nasdaq on its website.'').

[42] *See* proposed NYSE Arca Rule 6.64P–O(d)(2) (providing that ''[o]nce a Rotational Quote has been sent, the Exchange will conduct an Auction when there is both a Legal Width Quote and, if applicable, Market Maker quotes with a non-zero offer in the series (subject to the Opening MMQ Timer(s) requirements in paragraph (d)(3) of this Rule''), and NYSE Arca Proposed Rules 6.64P–O(d)(3)(C)(i) (providing that ''[t]he Exchange will conduct the Auction, without waiting for the Opening MMQ Timer to end, as soon as there is both a Legal Width Quote and at least two quotes with a non-zero offer submitted by assigned Market Maker(s)'') and (d)(3)(C)(ii) (providing that ''[i]f the Exchange has not received at least two quotes with a non-zero offer from any Market Maker(s) assigned to a series by the end of the Opening MMQ Timer, the Exchange will begin a second Opening MMQ Timer'').

[43] *See* proposed Rule 6.37–O(c).

[44] *See* proposed Rule 6.62P–O(e)(3)(C)(ii).

[45] *See* proposed Rule 6.62P–O(h)(6)(B).

[46] 15 U.S.C. 78f(b).

objectives of Section 6(b)(5),[47] in particular, because it is 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 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.

Proposed Change to Pillar Auction Process

Overall, the Exchange believes the proposed changes to its Auction Process would promote a fair and orderly market by mitigating the potential for extreme executions when a series opens in a wide market and improving the speed and efficiency of the Exchange's opening process without impairing price discovery. The Exchange believes the proposed change should result in better and more consistent prices on Auction executions and facilitate a fair and orderly transition to continuous trading.

The Exchange believes the proposal to amend Rule 6.64P–O to remove specific values or time periods when the Exchange is authorized to change (and in some cases has changed) such values/timers by Trader Update would add clarity and transparency to the rule and alleviate potential confusion resulting from stale values remaining in rule text. As such, this proposed change would 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.

The Exchange believes the proposed change to make clear that the Exchange's discretion to modify the Maximum Calculated NBBO Spread that would qualify as a Legal Width Quote during the Auction Process would promote just and equitable principles of trade to the benefit of investors because such change would add clarity and transparency to the rule and help avoid potential investor confusion. The proposed change would also align the Exchange's rule text with that of Cboe and its affiliates with regard to the specific discretion applying during the Auction Process.[48]

The Exchange believes the proposal to amend Rule 6.64P–O(d)(4) to allow the Exchange to conduct an Auction on a wide Calculated NBBO once it has cancelled certain trading interest would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors. In particular, the Exchange believes that the proposed change would improve the speed and efficiency of the Exchange's opening process without impairing price discovery, which should result in better and more consistent prices on Auction executions. The proposed cancellation of Market Orders, MOO Orders, and Limit Orders to buy (sell) priced equal to or higher (lower) than the Indicative Match Price, would allow the Exchange to proceed with a timely opening of each series while preventing extreme executions for series opened based on a wide Calculated NBBO. The proposal to cancel Limit Orders to buy (sell) priced equal to or higher (lower) than the Indicative Match Price when the Calculated NBBO is wider than the Legal Width Quote, which functionality is new, would allow the Exchange to help ensure that potentially executable Limit Orders would be cancelled rather than execute at potentially extreme prices before the Exchange transitions to continuous trading (in a wide market). As such, the Exchange believes that providing for the cancellation of potentially executable interest (Market Orders, MOOs and Limit Orders alike) would protect investors as it would continue to limit the risk of execution of orders at extreme prices.

The Exchange believes its proposed conforming change to eliminate as unnecessary Rule 6.64P–O(d)(4)(B) given the changes to Rule 6.64P–O(d)(4) (to allow any series that has not opened by the end of the initial Auction Process time period the ability to open based on a wide Calculated NBBO after cancelling executable interest) would remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because it would allow the Exchange to proceed with a more timely opening of each series—which opening may have otherwise been delayed per the current Pillar Rule until market conditions changed. Further, the Exchange believes this conforming change would add clarity, specificity, transparency, and internal consistency to the proposed rule making it easier for market participants to navigate and comprehend.

The Exchange proposes to modify Rule 6.64P–O(c) to authorize the Exchange to modify the time within which it updates Auction Imbalance Information and to announce any such changes by Trader Update would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because the Exchange anticipates that as a result of its proposed changes to the Auction Process that updates the Auction Imbalance Information may not be required as frequently as is set forth in the current rule. The Exchange believes that the flexibility afforded by the proposed change would enable it to monitor client feedback and to then determine the appropriate frequency of the publication of the Auction Imbalance Information. In addition, consistent with the rules of other options exchanges, it would afford the Exchange flexibility, including to respond to market conditions.[49]

The Exchange believes its proposal to modify the requirements to open a series for option series that have two or more assigned Market Makers would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors because it would continue to provide Market Makers assigned to such series the opportunity to submit a quote while potentially promoting a more timely opening once at least two quotes (even if from a single Market Maker) have been submitted and would add clarity and transparency to Exchange rules. The Exchange believes the proposed rule change would provide more flexibility in terms of how market depth in the affected series is achieved (*i.e.,* based on quotes from a single Market Maker as opposed to two) and may result in a more timely and efficient opening process. Further, the proposed change may increase the availability of Legal Width Quotes in more series and would add clarity and transparency to Exchange rules. Improving the validity of the opening price benefits all market participants and also benefits the reputation of the Exchange as being a venue that provides accurate price discovery. To the extent that this proposed rule change results in an option series opening sooner, which, in turn would increase the times during which investors may conduct trading in these options, this proposed change would benefit investors and the investing public.

[47] 15 U.S.C. 78f(b)(5).

[48] *See supra* note 32 (citing the discretion of Cboe and its affiliates to modify the opening auction parameters during the opening process).

[49] *See supra* note 41 (regarding NOM's discretion to establish intervals for its dissemination of an Order Imbalance Indicator and to post such interval(s) to NOM's website, per Section 8(b)(3)).

The Exchange believes that the proposed non-substantive and conforming changes to Rule 6.64P–O (including to delete paragraph (d)(4)(B)) would promote just and equitable principles of trade because such changes would streamline Rule 6.64P–O, thus adding clarity to the Auction Process making it easier to comprehend and navigate to the benefit of market participants and would promote transparency and internal consistency within Exchange rules making them easier to comprehend and navigate.

Additional Proposed Non-Substantive or Clarifying Changes to Exchange Rules

The Exchange believes that the proposed non-substantive and clarifying changes that update/correct inaccurate references would promote transparency and internal consistency within Exchange rules making them easier to comprehend and navigate.[50]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a competitive market and regularly competes with other options exchanges for order flow. The Exchange does not believe that the proposed rule change would impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because all market participants may trade in any series that opens subject to the proposed (modified) opening process.

The Exchange believes that the proposed change to the Auction Process, which would allow certain unopened series to open in a wide market after the Exchange first cancelled potentially executable interest, would not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it is designed to open series on the Exchange in a fair, orderly and timely manner while at the same time mitigating the potential for extreme executions. Further, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, as all market participants that participate in the opening process may benefit equally from the proposal, as the rules of the Exchange apply equally to all market participants.

The Exchange does not believe that the proposed change to open those series with more than one assigned Market Maker based on two quotes regardless of the source would result in an undue burden on competition. Market Makers are encouraged but not required to quote in their assigned series at the open regardless of whether a Market Maker is one of several assigned to a series or is the only one. As such, this proposal would not subject any Market Maker to additional obligations. Thus, the Exchange does not believe this proposed change would result in an undue burden on intra-market competition as it would apply equally to all similarly-situated Market Makers regarding their assigned series. The Exchange believes that the proposal to allow a series with more than one assigned Market Maker to open based on two quotes regardless of the source would continue to encourage participation of Market Makers at the open, may increase the availability of Legal Width Quotes in more series, thereby allowing more series to open (sooner). Improving the validity of the opening price benefits all market participants and also benefits the reputation of the Exchange as being a venue that provides accurate price discovery. With respect to inter-market competition, the Exchange notes that most options exchanges do not require Market Makers to quote during the opening.[51]

Additionally, the non-substantive changes proposed by the Exchange, including removing reference to specific values or time periods where the Exchange has discretion to modify such values/timers by Trader Update, provide additional clarity and detail in the Exchange's rules, reduce the potential for investor confusion, and are not changes made for any competitive purpose.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[52] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,[53] which requires, among other things, that the rules of a national securities 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and that the rules of a national securities exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Proposed Change to the Pillar Auction Process

The Commission believes that the proposal to define the term ''initial Auction Process time period'' [54] is consistent with the Exchange's discretion, under current NYSE Arca Rule 6.64P–O(d)(4), to modify the ninety second time period referenced in NYSE Arca Rule 6.64P–O(d)(4), provided that any such changes are announced by Trader Update.[55] The Exchange represents that it has modified this time period by Trader Update since adopting the Pillar Rule.[56] Similarly, the proposed change to remove reference to ''30 seconds'' as the default value for the length of each MMQ Opening Timer [57] is consistent with the Exchange's discretion to modify this value, as specified by Trader Update, under current NYSE Arca Rule 6.64P–O(d)(3). The Exchange represents that it has modified this time period since adopting the Pillar Rule.[58] The proposed

[50] *See supra* notes 43–45.

[51] *See, e.g.,* Cboe and its affiliated exchanges.

[52] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[53] 15 U.S.C. 78f(b)(5).

[54] *See* Proposed NYSE Arca Rule 6.64P–O(a)(5)(i).

[55] *See* NYSE Arca Rule 6.64P–O(d)(4).

[56] *See supra* note 27 and accompanying text (describing how, on August 19, 2002, the Exchange announced by Trader Update that, effective August 22, 2022, ''the Exchange will reduce the time period after the start of the Auction Process when the Exchange may open a series on a quote without requiring a Legal Width Quote (provided there is no crossing interest) to 15 seconds, from the current 90 seconds,'' *available at https://www.nyse.com/trader-update/history#110000462552.*

[57] *See* Proposed NYSE Arca Rule 6.64P–O(d)(3).

[58] *See supra* note 29 and accompanying text (describing how, on August 19, 2022, the Exchange announced by Trader Update that effective August 22, 2022, each Opening MMQ Timer will be

Continued

changes would thus update and align Exchange rules with current Exchange-specified time periods under current NYSE Arca Rule 6.64–P–O(d)(4) and NYSE Arca Rule 6.64P–O(d)(3), thereby enhancing transparency to and promoting a fair and orderly Auction Process.

The Commission believes that the proposal to specify that the maximum allowable spread between the Calculated NBBO that is determined by the Exchange for each option contract on a class basis may be modified by the Exchange during the Auction Process, and that such maximum differentials, including any modifications thereto, will be announced by Trader Update [59] would, consistent with current NYSE Arca Rule 6.64P–O(a)(10), clarify that the Exchange has discretion to modify such maximum differentials during the Auction Process, and that any modifications to such maximum differentials would be announced by Trader Update, consistent with the current NYSE Arca rule.[60] The Commission thus believes that this proposal would add greater specificity to the current rule text, thereby enhancing clarity and transparency for and to the benefit of all market participants.[61]

The Commission believes that the proposal to provide that the Exchange may open a series that has not opened by the end of the initial Auction Process time period when the spread of the Calculated NBBO is wider than that required to constitute a Legal Width Quote, provided that the Exchange cancels potentially executable interest before proceeding to continuous trading under NYSE Arca Rule 6.64P–O(f),[62] would allow the Exchange to timely open an option series in such instances, while protecting such canceled auction interest from potentially executing at unexpectedly extreme prices.[63]

As proposed in Amendment No. 2, before the Exchange can open a series with a quote and transition to continuous trading when the spread of the Calculated NBBO is wider than the Legal Width Quote, the Exchange must first cancel Market Orders, MOO Orders, and Limit Orders to buy (sell) priced equal to or higher (lower) than the Indicative Match Price.[64] The Commission believes that this proposed measure to cancel potentially executable interest [65] before the Exchange proceeds to continuous trading, with the Auction resulting in a quote, is reasonably designed to remove impediments to the timely opening of a series while also protecting investors and the public interest by protecting potentially executable auction interest from potentially executing at unexpectedly extreme prices before transitioning to continuous trading pursuant to NYSE Arca Rule 6.64P–O(f). Therefore, the Commission believes that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act.

The Commission believes that proposed conforming changes to delete NYSE Arca Rule 6.64P–O(d)(4)(B) as unnecessary would provide greater clarity and promote internal consistency among Exchange rules because proposed changes to NYSE Arca Rule 6.64P–O(d)(4) would render such rule obsolete.[66]

The Commission believes that the related proposed rule change to authorize the Exchange to modify the frequency with which it updates Auction Imbalance Information, provided such changes are announced by Trader Update,[67] is consistent with the proposed changes to NYSE Arca Rule 6.64P–O(d)(4) allowing the Exchange to open a series on a quote following the Initial Auction Process time period after canceling potentially executable interest. The current rule [68] provides for the publication of Auction Imbalance Information at least every second,[69] and the Exchange represents that, given the proposal to cancel potentially executable interest under proposed changes to NYSE Arca Rule 6.64P–O(c), it may not be necessary to update Auction Imbalance Information with such frequency. The Commission believes that the proposal thus provides the Exchange with the flexibility to monitor the impact of the proposed rule change so as to better assess the appropriate frequency for publication of Auction Imbalance Information that would continue to provide market participants with the transparency necessary to participate in and benefit from the price discovery that may take place during the opening auction, consistent with the interests of market participants and a fair and orderly auction process.[70]

In addition, the Commission believes that the proposal to modify the

reduced to 5 seconds, from the current value of 30 seconds).

[59] *See* Proposed NYSE Arca Rule 6.64P–O(a)(10)(C).

[60] *See* NYSE Arca Rule 6.64P–O(a)(10)(C) (providing that, a ''Legal Width Quote'' is a Calculated NBBO that, among other requirements, has a spread between the Calculated NBBO for each option contract that does not exceed a maximum differential that is determined by the Exchange on a class basis and announced by Trader Update, provided that a Trading Official may establish differences other than the above for one or more series or classes of options).

[61] Other options exchange rules specify that the exchange has discretion to modify the opening parameters for each option series during the opening auction process, provided each such change is announced to market participants. *See, e.g.,* Cboe Options Exchange, Inc. (''Cboe'') Rule 5.31(a) (defining the term ''Maximum Composite Width); Cboe EDGX Options Exchange, Inc. (''EDGX'') Rule 21.7(a).

[62] *See* Proposed NYSE Arca Rule 6.64P–O(d)(4). The proposed rule also requires, among other things, a Calculated NBBO that is not crossed and that does not contain a zero offer. *See id.*

[63] Consistent with this change, the Exchange proposes to add a caveat to NYSE Arca Rule 6.64P–O(d)(2)(A)—which provides for the trading of certain executable interest at the Indicative Match Price—to make clear that the trading behavior set forth in this provision is subject to Proposed NYSE Arca Rule 6.64P–O(d)(4). The Exchange notes that, although the functionality set forth in NYSE Arca Rule 6.64P–O(d) is designed to allow the affected series to open on a quote (and not a trade), the Exchange acknowledges the possibility that such series may open on a trade because orders or quotes may arrive as the Exchange is evaluating trading interest and whether such interest qualifies as a Legal Width Quote. *See, e.g., supra* Section II; Proposed NYSE Arca Rules 6.64P–O(d)(2)(A), 6.64P–O(d)(4).

[64] *See* Proposed NYSE Arca Rule 6.64P–O(d)(4). In a related change, the Exchange is also proposing to re-locate the text regarding the potential race condition resulting in a trade from Rule 6.64P–O(d)(4)(A) to Proposed NYSE Arca Rule 6.64P–O(d)(4) and to replace reference to ''Auction'' with ''Auction Process'' in NYSE Arca Rule 6.64P–(O)(d)(4) for the sake of clarity. As a conforming change, the Exchange is also proposing to delete current paragraph (d)(4)(A) of the Pillar Rule as obsolete because the text describing the opening based on a wide Calculated NBBO is contained in Proposed NYSE Arca Rule 6.64P–O(d)(4), and the transition to continuous trading is no longer dependent upon the presence of Matched Volume under the proposed rules. *See, e.g.,* NYSE Arca Rule 6.65P–O(d)(4)(A); Proposed NYSE Arca Rule 6.64(d)(4).

[65] The Exchange represents that, pursuant to NYSE Arca Rule 6.64P–O(f)(1)–(3), Auction interest that is not cancelled in the particular series that open per Proposed NYSE Arca Rule 6.64P–O(d)(4) would be handled in the same manner as all other Auction interest that is present when the Exchange transitions from the Auction Process to continuous trading under Exchange rules. *See supra* note 39 and accompanying text.

[66] *See supra* Section II (describing how proposed changes to NYSE Arca Rule 6.64P–O(d)(4), which would allow any series that has not opened by the end of the initial Auction Process time period the ability to open on a quote, provided that the Exchange cancels potentially executable interest before proceeding to continuous trading, based on a wide Calculated NBBO, would render NYSE Arca Rule 6.64P–O(d)(4)(B) obsolete because it contemplates a series not being able to open because the spread of the Calculated NBBO is wider than, and thus does not qualify as, a Legal Width Quote).

[67] *See* Proposed NYSE Arca Rule 6.64P–O(c).

[68] *See* NYSE Arca Rule 6.64P–O(c).

[69] NYSE Arca Rule 6.64P–O(c) provides that ''Auction Imbalance Information is updated at least every second until the Auction is conducted, unless there is no change to the information. The Exchange will begin disseminating Auction Imbalance Information at the following times: (1) Core Open Auction Imbalance Information will begin at 8:00 a.m. Eastern Time. (2) Trading Halt Auction Imbalance Information will begin at the beginning of the trading halt.''

[70] Other options market rules provide options exchanges with similar discretion. *See, e.g.,* Nasdaq Options Market Section 8(b)(3).

requirements to open a series during the Initial Auction Process time period for option series with two or more assigned Market Makers by requiring, among other things,[71] that at least two quotes with a non-zero offer be submitted by any single Market Maker, rather than from two assigned Market Makers, as under the current rule,[72] would continue to encourage Market Makers to quote during the opening process, while also providing additional flexibility with respect to how market depth in the affected series is established, thereby facilitating price discovery consistent with then current market conditions.

Other Exchange Rules: Proposed Non-Substantive Changes

The Commission believes the proposed non-substantive changes to certain Exchange rules [73] do not raise regulatory issues as they would, among other things, correct typographical errors, conform current rules to proposed changes, and correct or update certain cross references, thereby promoting ease of use for market participants and enhancing the internal consistency of Exchange rules.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act [74] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2022–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2022–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2022–31, and should be submitted on or before December 1, 2022.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 2 in the **Federal Register**.

The Commission believes there is good cause for the Commission to accelerate effectiveness of the proposed rule change because, as proposed, the changes set forth in Amendment No 2, including the cancellation of potentially executable interest before proceeding to continuous trading under Exchange rules,[75] would remove impediments to and enable the Exchange to proceed with the timely opening of option series that have not opened by the end of the initial Auction Process time period because the spread of the Calculated NBBO is wider than that required to qualify as a Legal Width Quote,[76] while also protecting otherwise potentially executable interest from trading at prices that are potentially extreme.

In addition, the proposed changes to specify that the Exchange may modify, during the Auction Process, the maximum differential for the spread between the Calculated NBBO that is established by the Exchange on a class by class basis to qualify as a Legal Width Quote, provided that any such modification is announced by Trader Update, as well as the proposed change to allow the Exchange to modify the frequency with which Auction Imbalance Information is updated, provided that any such change is announced by Trader Update do not raise regulatory issues as these proposals provide greater specificity to Exchange rules, are not novel, and are, moreover, consistent with the rules of other options exchanges,[77] The Commission believes that related changes in Amendment No. 2, including the proposal to remove specific values or time periods when the Exchange is authorized to change such values or timers by Trader Update would provide greater specificity to the Exchange's current rules, thereby enhancing transparency, eliminating stale values, and aligning the rules with current Exchange practice, as the Exchange represents that it has, on at least one occasion, changed certain values by Trader Update.[78] Similarly, the proposed non-substantive changes to certain Exchange rules [79] do not raise regulatory issues as they would correct typographical errors, make conforming changes to, as well as correct and update certain cross references in Exchange rules thereby promoting ease of use for and enhancing the internal consistency of Exchange rules to the benefit of market participants. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[80] to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[81] that the proposed rule change (SR–NYSEARCA–2022–31), as modified by Amendment

[71] *See* Proposed NYSE Arca Rule 6.64P–O(d)(3)(C).

[72] *See* NYSE Arca Rule 6.64P–O(d)(3)(c).

[73] *See, e.g., supra* Section II; Proposed NYSE Arca Rules 6.37O, 6.62P–O, 6.64P–O(d)(3)–(4).

[74] 15 U.S.C. 78f(b)(5).

[75] *See* Proposed NYSE Arca Rule 6.64P–O(d)(4).

[76] *See* Proposed NYSE Arca Rule 6.64P–O(d)(4). The proposed rule change also requires, among other things, that the Calculated NBBO is not crossed and does not contain a zero offer. *See id.*

[77] *See supra,* notes 32, 41 and accompanying text.

[78] *See supra* notes 26, 29 and accompanying text.

[79] *See supra* note 74 and accompanying text.

[80] 15 U.S.C. 78s(b)(2).

[81] *Id.*

No. 2 be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[82]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24508 Filed 11–9–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96234; File No. SR–BOX–2022–28]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Options Market LLC Facility To Amend Certain Fees and Rebates for Qualified Contingent Cross Transactions

November 4, 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 28, 2022, BOX Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to amend the certain fees and rebates for Qualified Contingent Cross (''QCC'') transactions on the BOX Options Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to amend the certain fees and rebates for Qualified Contingent Cross (''QCC'') transactions.[5] A QCC Order is defined as an originating order (Agency Order) to buy or sell at least 1,000 standard option contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, coupled with a contra side order to buy or sell an equal number of contracts.[6]

The Exchange proposes to amend the transactions fees for all Broker Dealers and Market Makers for their QCC transactions on BOX. Specifically, the Exchange proposes to increase the QCC fees for Broker Dealers and Market Makers to $0.20 from $0.17 for both the Agency Order and the Contra Order. The Exchange notes that the proposed fees are identical to another exchange in the industry.[7]

The Exchange also proposes to amend certain rebates for QCC transactions.[8] Specifically, the Exchange proposes to amend the rebates in Tiers 2, 3, and 4, for both Rebate 1 and Rebate 2 in the QCC Rebate subsection. In Tier 2, if a Participant's QCC Agency Order Volume on BOX is 1,500,000 to 2,499,999 contracts, the Exchange proposes to increase Rebate 1 to $0.16 from $0.15 and increase Rebate 2 to $0.24 from $0.23. In Tier 3, if a Participant's QCC Agency Order Volume on BOX is 2,500,000 to 3,499,999 contracts, the Exchange proposes to increase Rebate 1 to $0.16 from $0.15 and increase Rebate 2 to $0.25 from $0.24. Lastly, in Tier 4, if a Participant's QCC Agency Order Volume on BOX is 3,500,000 contracts or above, the Exchange proposes to increase Rebate 1 to $0.17 from $0.15 and increase Rebate 2 to $0.27 from $0.25. The Exchange notes that the proposed rebates are in line with (or in some instances higher than) rebates currently assessed at another exchange.[9]

Lastly, the Exchange proposes to delete the sentence in Section IV.D.1 that states that ''if the Participant qualifies for both rebates, only the larger rebate will be applied to the QCC transaction.'' The Exchange notes that under the current fee schedule, a market participant can only qualify for 1 of the 2 rebates set forth in Section IV.D.1 and therefore, the Exchange proposes to remove this sentence.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 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 BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed changes to the QCC Rebate structure are reasonable because the proposed changes provide opportunities for Participants to receive higher rebates for increasing the Participant's Agency QCC Order volume on BOX. The Exchange again notes that a volume-based incentive structure with similar rebates for QCC transactions currently exists at another exchange and that the Exchange is filing this proposal so that BOX can remain competitive with respect to QCC transactions within the options industry.[11] The Exchange also believes that the proposed QCC Rebates are equitable and not unfairly discriminatory as the proposed rebates will apply uniformly to the Participants that reach the applicable tiers. Further, the Exchange continues to believe that applying the proposed rebates where at least one party to the QCC transaction is a Broker Dealer or Market Maker is reasonable, equitable, and not unfairly discriminatory because Public

[82] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] BOX was made aware that competing options exchanges intend to make similar changes to their respective QCC fees and rebates effective for October 3, 2022. As such, the Exchange is filing this proposal so that BOX can remain competitive with respect to QCC transactions within the options industry.

[6] *See* BOX Rule 7110(c)(6).

[7] *See* Cboe EDGX Exchange, Inc. (''CboeEDGX'') Fee Schedule.

[8] The Exchange notes that the order volume thresholds in Tiers 1 through 4 remain the same.

[9] *See supra* note 7.

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *Id.*

Customers and Professional Customers are not assessed fees for these transactions and, in turn, do not need the incentive of the rebate.

The Exchange continues to believe that the current rebate structure and proposed rebates are reasonable as it provides an incremental incentive for Participants to strive for the higher tier levels, which provide increasingly higher rebates for incrementally more QCC volume achieved, which the Exchange believes is a reasonably designed incentive for Participants to grow their QCC order flow to receive the enhanced rebates. The Exchange also believes that continuing to have two alternative rebates (depending on the capacity of the parties to the transaction) is reasonable and appropriate as this is how the Exchange assesses the rebates for QCC transactions today.[12]

The Exchange believes the proposed changes to the QCC transaction fees are reasonable as they are identical to fees currently assessed for QCC transactions at another exchange.[13] The Exchange also believes that the proposed fees are equitable and not unfairly discriminatory as they will apply equally to all Broker Dealers and Market Makers on BOX. Further, the Exchange believes that increasing QCC transaction fees for Broker Dealers and Market Makers (and not Public Customers and Professional Customers) is reasonable, equitable and not unfairly discriminatory because Broker Dealers and Market Makers are offered increased rebates (as discussed above) for their QCC transactions where Public Customers and Professional Customers are not assessed fees for these transactions. As such, the Exchange believes that continuing to assess no fee to Public Customers and Professional Customers is reasonable, equitable, and not unfairly discriminatory.

Further, the Exchange believes that charging Broker Dealers and Market Makers more than Public Customers and Professional Customers for QCC Orders is reasonable equitable and not unfairly discriminatory. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. The Exchange believes that continuing to charge no fees to Public Customers and Professional Customers in QCC transactions is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer and Professional Customer order flow. Further, as discussed above, the Exchange believes that the proposed fees for Broker Dealers and Market Makers are equitable and not unfairly discriminatory as they will be assessed to all Broker Dealers and Market Makers on BOX. The Exchange continues to believe that charging no fee to Professional Customers is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting additional order flow.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes to the QCC transactions fees will not cause an unnecessary burden on intermarket competition as the proposed fees are identical to fees at another exchange. Rather, the Exchange believes that offering similar fees as another exchange could promote competition in the industry. Further, the Exchange notes that the proposed QCC transactions fees will be applied uniformly to all similarly situated Broker Dealers and Market Makers on BOX and thus will not cause any burden on intramarket competition. Further, the Exchange believes that the proposed changes to the QCC Rebates will not cause an unnecessary burden on intermarket competition as the proposed rebates are in line with similar QCC rebates assessed at another exchange. The Exchange also notes that the proposed QCC rebates will be applied uniformly to the Participants that reach the applicable tiers. The Exchange believes that the proposed changes related to QCC transactions would not impose any burden on intramarket competition, but rather, serves to increase intramarket competition by incentivizing market participants to direct their QCC orders to the Exchange which in turn may allow market participants to offer more competitive prices for their services.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 Exchange Act[14] and Rule 19b–4(f)(2) thereunder,[15] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2022–28 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–BOX–2022–28. 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/*

[12] The Exchange notes that Rebate 1 assesses lower rebates than rebates in Rebate 2 because when only one side of the QCC transaction is a Broker Dealer or Market Maker then only one side of the QCC transaction is assessed a fee, therefore the total fees assessed are lower and the corresponding rebate is also lower.

[13] *See supra* note 7.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

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 such 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–BOX–2022–28, and should be submitted on or before December 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24507 Filed 11–9–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96237; File No. SR–ICC–2022–013]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of filing of Proposed Rule Change Relating to the ICC Collateral Risk Management Framework, ICC Treasury Operations Policies and Procedures, and ICC Liquidity Risk Management Framework

November 4, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] (the ''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2022, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been primarily prepared by ICC. 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 principal purpose of the proposed rule change is to formalize the Collateral Risk Management Framework (''CRMF'') and to amend the Treasury Operations Policies and Procedures (''Treasury Policy'') and the Liquidity Risk Management Framework (''LRMF''). These revisions do not require any changes to the ICC Clearing Rules (the ''Rules'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes to formalize the CRMF and to make related changes to the Treasury Policy and the LRMF. The proposed changes formalize a standalone CRMF to centralize relevant information on ICC's collateral assets risk management methodology in one document. The proposed changes further remove duplicative information from the Treasury Policy and update references in the Treasury Policy and the LRMF accordingly. Such changes would not amend ICC's methodology but would instead promote transparency and effective operation of the collateral assets risk management model by unifying key information on ICC's collateral assets risk management approach in one document. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are discussed in detail as follows.

CRMF

ICC proposes to formalize the CRMF as a standalone document containing its current collateral assets risk management approach. The CRMF begins by introducing ICC's quantitative risk management approach that accounts for the risk associated with fluctuations of collateral asset prices. The document is further divided into six sections that are detailed below.

Section I sets out the computation of the current collateral asset haircut factors. To compute collateral haircut factors, estimations of two risk measures are performed. The more conservative risk measure is chosen to establish the haircut factors that capture potential collateral value losses. The chosen methodology, which consists of quantifying the potential risk exposures by analyzing the distribution of the appropriately identified risk factor describing the collateral asset price changes, is set forth in more detail in this section.

The following subsections are specific to currency and sovereign debt haircut factors. Regarding currency haircut factors in Subsection I.a, a two-stage approach is set out to account for the risk associated with fluctuations of collateral asset prices denominated in foreign currencies and its corresponding time series are used for collateral denominated in foreign currencies. The risk of the underlying collateral asset is estimated in its own currency in the first stage, and the risk exposure to an exchange rate conversion is considered by applying a foreign exchange (''FX'') haircut factor in the second stage. With respect to sovereign debt haircut factors, Subsection I.b sets out how the fluctuations of the time to maturity yield rates are considered and its corresponding time series are used for sovereign debt collateral. In each subsection, further detail, such as relevant computations, equations, definitions, and considerations, is included to describe how currency and sovereign debt haircut factors are determined.

The final haircut factor rounding process is set out in Subsection I.c. The estimated haircut factors are rounded up to ensure appropriate stability and some conversative bias. Relevant computations, equations and illustrations demonstrate the haircut factor rounding process.

Section II details the current collateral assets risk management model and contains additional risk management information. This section begins by

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

introducing the statistical calibration of the model by estimating an appropriate distribution to a time series of past realizations of the driving factor. One of the main components of the collateral assets risk management model is the distribution that describes the realizations of the asset price determining risk factor. Certain assumptions are also introduced to provide more stable and easy-to-reproduce numerical results.

The model framework is described in more detail in the following subsections. Subsection II.a details certain distributional assumptions appropriate for FX and fixed income (''FI'') assets on which the haircut methodology is based. A summary of relevant literature is included; the haircut methodology uses the cited results on distribution families with applications to FX and FI instruments. Subsection II.b and II.c set forth parameter estimations. Subsection II.b expresses how parameter estimates are obtained and used to compute multi-day risk measures. Parameter estimations are performed in stages to facilitate numerical implementation and result replication and to eliminate potential operational risk. The main inputs for the statistical approach are set out and the calibration of the collateral haircut model is discussed. Subsection II.c explains how the variability of a risk factor is described for risk management purposes and sets out the selected measure of variability for all considered time series. Subsection II.d depicts multi-period forecasting, including the analysis that is performed to extend one-day to multi-period forecasts. Subsection II.e discusses how risk measures are obtained which are used for haircut purposes. For each subsection, additional detail, such as relevant parameters, computations, equations, definitions, and figures, is included to describe relevant processes.

Section III contains governance procedures relevant to the CRMF. Collateral haircut factor estimations are executed daily, and the ICC Risk Department reviews the results and determines any updates, at least monthly. Haircut factors can be updated more frequently at the discretion of the ICC Chief Risk Officer (''CRO'') or designee. Additional language explains the implementation of updates by relevant departments and the periodic review of the statistical performance of the collateral haircut model, which consists of back-testing of applicable risk factors at least quarterly. A discussion of the back-testing exercise is included related to exploring poor back-testing results and taking remedial actions. The associated governance process is also summarized, including the ICC officers responsible for determining poor back-testing, the steps required following such determination, the groups consulted regarding poor back-testing or remedial action, and additional statistical analyses to measure and monitor the significance of back-testing results.

Section IV provides applications to FX and FI instruments to demonstrate the viability of the model used in the collateral risk management methodology. Subsection IV.a presents an example of the modeling approach applied to cash collateral denominated in a currency different from the required currency. Subsection IV.b presents an example of the modeling approach applied to US Treasury Bonds denominated in US Dollars (''USD''). Subsection IV.c presents an example of the modeling approach applied to US Treasury Inflation Protected Securities (''TIPS'') denominated in USD. Each subsection sets out a three-stage approach to estimate risk measures and corresponding haircut factors and includes illustrations and back-testing results. Finally, Section V consists of a list of references and Section VI adds a revision history.

Treasury Policy

The proposed changes remove information on ICC's collateral assets risk management approach from the Treasury Policy. Currently, Appendix 6 to the Treasury Policy, titled Collateral Assets Risk Management Framework, (''Appendix 6'') contains this information. ICC proposes to remove Appendix 6 and, accordingly, to replace a reference to Appendix 6 with a reference to the CRMF in Section V.B.3.

In general, information from Appendix 6 is included throughout Sections I and III of the CRMF with minor differences in drafting style and without substantive changes. The below list summarizes where the information in Appendix 6 would reside following removal and differences from the CRMF.

- The approach accounting for the risk associated with fluctuations of collateral assets denominated in foreign currencies in Appendix 6, paragraph 1 is moved to the CRMF, Subsection I.a.
- The estimations of two risk measures in Appendix 6, paragraph 2 are moved to the CRMF, Section I.
- Examples related to currencies and sovereign debt from Appendix 6, paragraphs 3 and 4 are moved to the CRMF, Subsections I.a and I.b, respectively.
- A risk measure definition in Appendix 6, paragraph 5 is moved to the CRMF, Section I. A policy reference from Appendix 6, paragraph 5 is removed, as ICC considers it unnecessary given the additional risk management information in the CRMF.
- Information on FX and sovereign debt haircuts in Appendix 6, paragraphs 6–9 is moved to the CRMF, Subsections I.a and I.b, respectively.
- The rounding of estimated haircuts in Appendix 6, paragraph 10 is moved to the CRMF, Subsection I.c. Information on establishing, reviewing, and updating haircuts in Appendix 6, paragraph 10 is moved to the CRMF, Section III.
- Information on updating haircuts during periods of extreme stress in Appendix 6, paragraph 11 is moved to the CRMF, Subsection I.c.

As described above, the remaining CRMF sections include additional information that is not in Appendix 6. The CRMF would more fully describe ICC's collateral assets risk management approach and would not change the methodology in Appendix 6.

LRMF

ICC proposes minor changes to the LRMF to update references from the Treasury Policy to the CRMF. Currently, Section 2.4 in the LRMF references information in Appendix 6, including details on the collateral haircut methodology and process for reviewing and updating collateral haircuts. The amended LRMF would reference the CRMF instead of the Treasury Policy which would contain the subject information under the proposed updates.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of section 17A of the Act [3] and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad–22.[4] In particular, section 17A(b)(3)(F) of the Act [5] requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest.

As discussed herein, the proposed amendments formalize the CRMF to centralize relevant information on ICC's collateral assets risk management

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ad–22.

[5] 15 U.S.C. 78q–1(b)(3)(F).

methodology in one standalone document. The CRMF includes information from Appendix 6 as well as information not in Appendix 6, such as additional risk management information, governance procedures, modeling approach examples, and references. The proposed amendments also remove duplicative information from the Treasury Policy and update references in the Treasury Policy and the LRMF to the CRMF as needed. The proposed rule change would not amend ICC's methodology and would promote effective operation of the collateral assets risk management model by unifying key information on ICC's collateral assets risk management approach in one document. The additional information in the CRMF would provide a more detailed explanation of the collateral assets risk management model and methodology that would facilitate replication and validation by third parties. In ICC's view, such changes promote transparency by including additional information on ICC's collateral assets risk management approach in the CRMF, including relevant parameters, computations, equations, definitions, and figures to describe relevant processes, which would also ensure that responsible parties carry out their assigned duties effectively and aid them in doing so. Further, the clarification changes ensure transparency, readability, and clarity by avoiding unnecessary repetition and duplication in the Treasury Policy and maintaining references to the appropriate document in the Treasury Policy and LRMF, which would avoid confusion between policies and promote efficient and effective operation of ICC's collateral assets risk management methodology. Accordingly, ICC believes that the proposed rule change is consistent with the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of section 17A(b)(3)(F) of the Act.[6]

The amendments would also satisfy relevant requirements of Rule 17Ad–22.[7] Rule 17Ad–22(e)(2)(i) and (v)[8] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. The proposed changes strengthen the governance procedures related to ICC's collateral assets risk management approach by memorializing associated governance processes and procedures in the CRMF. The CRMF details governance procedures associated with haircut factor updates, implementation, and review, including the responsible ICC personnel, department, group, or committee. As such, in ICC's view, the proposed rule change continues to ensure that ICC maintains policies and procedures that are reasonably designed to provide for clear and transparent governance arrangements and specify clear and direct lines of responsibility, consistent with Rule 17Ad–22(e)(2)(i) and (v).[9]

Rule 17Ad–22(e)(4)(ii)[10] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for ICC in extreme but plausible market conditions. The proposed amendments enhance ICC's ability to manage its financial resources by providing further clarity and transparency on its collateral assets risk management approach through additional details, examples, and references in the CRMF, which will promote the effective and accurate function of the collateral assets risk management model. The additional information in the CRMF provides a more detailed explanation of the collateral assets risk management model and methodology, which will facilitate replication and validation by third parties. The proposed rule change would also enhance the implementation of various processes and procedures associated with the collateral assets risk management methodology to ensure that responsible parties effectively carry out their associated duties, including by providing relevant parameters, computations, equations, definitions, and figures. Furthermore, the clarification changes serve to avoid confusion between policies and promote efficient and effective operation of ICC's collateral assets risk management methodology by avoiding unnecessary repetition and duplication in the Treasury Policy by removing Appendix 6 and by ensuring references to the appropriate document in the Treasury Policy and LRMF. As such, the proposed amendments would support ICC's ability to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad–22(e)(4)(ii).[11]

Rule 17Ad–22(e)(5)[12] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits if the covered clearing agency requires collateral to manage its or its participants' credit exposure; and require a review of the sufficiency of its collateral haircuts and concentration limits to be performed not less than annually. ICC would continue to limit the assets that ICC accepts as collateral to those with low credit, liquidity, and market risks under the proposed rule change. Furthermore, the CRMF would provide a clear framework for ICC to continue to set and enforce appropriately conservative haircuts for acceptable collateral assets and would set out responsible parties. The additional governance procedures in Section III of the CRMF would ensure that ICC establishes, reviews, and updates haircuts within defined intervals, and more frequently if deemed necessary. As described above, collateral haircut factor estimations are executed daily, and the ICC Risk Department reviews the results and determines any updates, at least monthly. Haircut factors can be updated more frequently at the discretion of the CRO or designee. As such, the amendments would satisfy the requirements of Rule 17Ad–22(e)(5).[13]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes formalize a standalone CRMF to centralize relevant information on ICC's collateral assets risk management methodology in one document. The proposed changes further remove duplicative information

[6] *Id.*

[7] 17 CFR 240.17Ad–22.

[8] 17 CFR 240.17Ad–22(e)(2)(i) and (v).

[9] *Id.*

[10] 17 CFR 240.17Ad–22(e)(4)(ii).

[11] *Id.*

[12] 17 CFR 240.17Ad–22(e)(5).

[13] *Id.*

from the Treasury Policy and update references in the Treasury Policy and the LRMF accordingly. These changes do not amend ICC's methodology and would apply uniformly across all market participants. ICC does not believe these amendments would affect the costs of clearing or the ability of market participants to access clearing. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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–ICC–2022–013 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–ICC–2022–013. 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.*

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–ICC–2022–013 and should be submitted on or before December 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–24505 Filed 11–9–22; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96239; File No. SR–CBOE–2022–053]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Operation of Its Flexible Exchange Options ("FLEX Options") Pilot Program Regarding Permissible Exercise Settlement Values for FLEX Index Options

November 4, 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 Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I 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 Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to extend the operation of its Flexible Exchange Options ("FLEX Options") pilot program regarding permissible exercise settlement values for FLEX Index Options. The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 4.21. Series of FLEX Options

(a) No change.

(b) *Terms.* When submitting a FLEX Order for a FLEX Option series to the System, the submitting FLEX Trader must include one of each of the following terms in the FLEX Order (all other terms of a FLEX Option series are the same as those that apply to non-FLEX Options), provided that a FLEX Index Option with an index multiplier of one may not be the same type (put or call) and may not have the same exercise style, expiration date, settlement type, and exercise price as a non-FLEX Index Option overlying the same index listed for trading (regardless of the index multiplier of the non-FLEX Index Option), which terms constitute the FLEX Option series:

(1)–(4) No change.

(5) settlement type:

(A) No change.

(B) *FLEX Index Options.* FLEX Index Options are settled in U.S. dollars, and may be:

(i) No change.

(ii) p.m.-settled (with exercise settlement value determined by

[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).

reference to the reported level of the index derived from the reported closing prices of the component securities), except for a FLEX Index Option that expires on any business day that falls on or within two business days of a third Friday-of-the-month expiration day for a non-FLEX Option (other than a QIX option) may only be a.m.-settled; however, for a pilot period ending the earlier of [November 7, 2022]*May 8, 2023* or the date on which the pilot program is approved on a permanent basis, a FLEX Index Option with an expiration date on the third-Friday of the month may be p.m.-settled;

(iii)–(iv) No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 28, 2010, the Securities and Exchange Commission (the ''Commission'') approved a Cboe Options rule change that, among other things, established a pilot program regarding permissible exercise settlement values for FLEX Index Options.[5] The Exchange has extended the pilot period numerous times, which is currently set to expire on the earlier of November 7, 2022 or the date on which the pilot program is approved on a permanent basis.[6] The purpose of this rule change filing is to extend the pilot program through the earlier of May 8, 2023 or the date on which the pilot program is approved on a permanent basis. This filing simply seeks to extend the operation of the pilot program and does not propose any substantive changes to the pilot program.

Under Rule 4.21(b), *Series of FLEX Options* (regarding terms of a FLEX Option),[7] a FLEX Option may expire on any business day (specified to day, month and year) no more than 15 years from the date on which a FLEX Trader submits a FLEX Order to the System.[8] FLEX Index Options are settled in U.S. dollars, and may be a.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported opening prices of the component securities) or p.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported closing prices of the component securities).[9] Specifically, a FLEX Index Option that expires on, or within two business days of, a third Friday-of-the-month expiration day for a non-FLEX Option (other than a QIX option), may only be a.m. settled.[10] However, under the exercise settlement values pilot, this restriction on p.m.-settled FLEX Index Options was eliminated.[11] As stated, the exercise settlement values pilot is currently set to expire on the earlier of November 7, 2022 or the date on which the pilot program is approved on a permanent basis.

Cboe Options is proposing to extend the pilot program through the earlier of May 8, 2023 or the date on which the pilot program is approved on a permanent basis. Cboe Options believes the pilot program has been successful and well received by its Trading Permit Holders and the investing public for the period that it has been in operation as a pilot. In support of the proposed extension of the pilot program, and as required by the pilot program's Approval Order, the Exchange has submitted to the Commission pilot program reports regarding the pilot, which detail the Exchange's experience with the program. Specifically, the Exchange provided the Commission with annual reports analyzing volume and open interest for each broad-based FLEX Index Options class overlying a third Friday-of-the-month expiration day, p.m.-settled FLEX Index Options series.[12] The annual reports also

[5] Securities Exchange Act Release No. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087) (''Approval Order''). The initial pilot period was set to expire on March 28, 2011, which date was added to the rules in 2010. *See* Securities Exchange Act Release No. 61676 (March 9, 2010), 75 FR 13191 (March 18, 2010) (SR–CBOE–2010–026).

[6] *See* Securities Exchange Act Release Nos. 64110 (March 23, 2011), 76 FR 17463 (March 29, 2011) (SR–CBOE–2011–024); 66701 (March 30, 2012), 77 FR 20673 (April 5, 2012) (SR–CBOE–2012–027); 68145 (November 2, 2012), 77 FR 67044 (November 8, 2012) (SR–CBOE–2012–102); 70752 (October 24, 2013), 78 FR 65023 (October 30, 2013) (SR–CBOE–2013–099); 73460 (October 29, 2014), 79 FR 65464 (November 4, 2014) (SR–CBOE–2014–080); 77742 (April 29, 2016), 81 FR 26857 (May 4, 2016) (SR–CBOE–2016–032); 80443 (April 12, 2017), 82 FR 18331 (April 18, 2017) (SR–CBOE–2017–032); 83175 (May 4, 2018), 83 FR 21808 (May 10, 2018) (SR–CBOE–2018–037); 84537 (November 5, 2018), 83 FR 56113 (November 9, 2018) (SR–CBOE–2018–071); 85707 (April 23, 2019), 84 FR 18100 (April 29, 2019) (SR–CBOE–2019–021); 87515 (November 13, 2020), 84 FR 63945 (November 19, 2019) (SR–CBOE–2019–108); 88782 (April 30, 2020), 85 FR 27004 (May 6, 2020) (SR–CBOE–2020–039); 90279 (October 28, 2020), 85 FR 69667 (November 3, 2020) (SR–CBOE–2020–103); 91782 (May 5, 2021), 86 FR 25915 (May 11, 2021) (SR–CBOE–2021–031); 93500 (November 1, 2021), 86 FR 61340 (November 5, 2021) (SR–CBOE–2021–064) *and* 94812 (April 28, 2022), 87 FR 26381 (May 4, 2022) (SR–CBOE–2022–020) (extending the pilot program through the earlier of November 7, 2022 or the date on which the pilot program is approved on a permanent basis). At the same time the permissible exercise settlement values pilot was established for FLEX Index Options, the Exchange also established a pilot program eliminating the minimum value size requirements for all FLEX Options. *See* Approval Order, *supra* note 5. The pilot program eliminating the minimum value size requirements was extended twice pursuant to the same rule filings that extended the permissible exercise settlement values (for the same extended periods) and was approved on a permanent basis in a separate rule change filing. *See id; and* Securities Exchange Act Release No. 67624 (August 8, 2012), 77 FR 48580 (August 14, 2012) (SR–CBOE–2012–040) (Order Granting Approval of Proposed Rule Change Related to Permanent Approval of Its Pilot on FLEX Minimum Value Sizes).

[7] In 2019, prior Rule 24A.4.01, covering the pilot program, was relocated to current Rule 4.21(b)(5). *See* Securities Exchange Act Release No. 87235 (October 4, 2019), 84 FR 54671 (October 10, 2019) (SR–CBOE–2019–084).

[8] Except an Asian-settled or Cliquet-settled FLEX Option series, which must have an expiration date that is a business day but may only expire 350 to 371 days (which is approximately 50 to 53 calendar weeks) from the date on which a FLEX Trader submits a FLEX Order to the System.

[9] *See* Rule 4.21(b)(5)(B); *see also* Securities Exchange Act Release No. 87235 (October 4, 2019), 84 FR 54671 (October 10, 2019) (SR–CBOE–2019–084). The rule change removed the provision regarding the exercise settlement value of FLEX Index Options on the NYSE Composite Index, as the Exchange no longer lists options on that index for trading, and included the provisions regarding how the exercise settlement value is determined for each settlement type, as how the exercise settlement value is determined is dependent on the settlement type.

[10] For example, notwithstanding the pilot, the exercise settlement value of a FLEX Index Option that expires on the Tuesday before the third Friday-of-the-month could be a.m. or p.m. settled. However, the exercise settlement value of a FLEX Index Option that expires on the Wednesday before the third Friday-of-the-month could only be a.m. settled.

[11] No change was necessary or requested with respect to FLEX Equity Options. Regardless of the expiration date, FLEX Equity Options are settled by physical delivery of the underlying.

[12] The annual reports also contained certain pilot period and pre-pilot period analyses of volume and open interest for third Friday-of-the-month expiration days, a.m.-settled FLEX Index series and third Friday-of-the-month expiration day Non-FLEX Index series overlying the same index as a third

contained information and analysis of FLEX Index Options trading patterns. The Exchange also provided the Commission, on a periodic basis, interim reports of volume and open interest.

The Exchange believes there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement (as discussed below).

In that regard, based on the Exchange's experience in trading FLEX Options to date and over the pilot period, Cboe Options continues to believe that the restrictions on exercise settlement values are no longer necessary to insulate Non-FLEX expirations from the potential adverse market impacts of FLEX expirations.[13] To the contrary, Cboe Options believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants' ability to trade in an exchange environment that offers the added benefits of transparency, price discovery, liquidity, and financial stability.

The Exchange also notes that certain position limit, aggregation and exercise limit requirements continue to apply to FLEX Index Options in accordance with Rules 8.35, *Position Limits for FLEX Options,* 8.42(g) *Exercise Limits* (in connection with FLEX Options) and 8.43(j), *Reports Related to Position Limits* (in connection with FLEX Options). Additionally, all FLEX Options remain subject to the general position reporting requirements in Rule 8.43(a).[14] Moreover, the Exchange and its Trading Permit Holder organizations each have the authority, pursuant to Rule 10.9, *Margin Required is Minimum,* to impose additional margin as deemed advisable. Cboe Options continues to believe these existing safeguards serve sufficiently to help monitor open interest in FLEX Option series and significantly reduce any risk of adverse market effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement.

Cboe Options is also cognizant of the OTC market, in which similar restrictions on exercise settlement values do not apply. Cboe Options continues to believe that the pilot program is appropriate and reasonable and provides market participants with additional flexibility in determining whether to execute their customized options in an exchange environment or in the OTC market. Cboe Options continues to believe that market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to, enhanced efficiency in initiating and closing out positions, increased market transparency, and heightened contra-party creditworthiness due to the role of the Options Clearing Corporation as issuer and guarantor of FLEX Options.

If, in the future, the Exchange proposes an additional extension of the pilot program, or should the Exchange propose to make the pilot program permanent, the Exchange will submit, along with any filing proposing such amendments to the pilot program, an annual report (addressing the same areas referenced above and consistent with the pilot program's Approval Order) to the Commission at least two months prior to the expiration date of the program. The Exchange is required to submit an annual report at least yearly. Currently, the Exchange provides annual reports that cover the period from August 1st to July 31st of the applicable year. The Exchange will continue to provide reports covering this period annually and any additional report at least two months prior to the expiration date of the program covering the full prior year in the case that the Exchange is requesting permanent approval of the program.[15] The Exchange will also continue, on a periodic basis, to submit interim reports of volume and open interest consistent with the terms of the exercise settlement values pilot program as described in the pilot program's Approval Order.[16] 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 pilot program is consistent with the Exchange Act. The Exchange is in the process of making public on its website all data and analyses previously

Friday-of-the-month expiration day, p.m.-settled FLEX Index option.

[13] In further support, the Exchange also notes that the p.m. settlements are already permitted for FLEX Index Options on any other business day except on, or within two business days of, the third Friday-of-the-month. The Exchange is not aware of any market disruptions or problems caused by the use of these settlement methodologies on these expiration dates (or on the expiration dates addressed under the pilot program). The Exchange is also not aware of any market disruptions or problems caused by the use of customized options in the over-the-counter (''OTC'') markets that expire on or near the third Friday-of-the-month and are p.m. settled. In addition, the Exchange believes the reasons for limiting expirations to a.m. settlement, which is something the SEC has imposed since the early 1990s for Non-FLEX Options, revolved around a concern about expiration pressure on the New York Stock Exchange (''NYSE'') at the close that are no longer relevant in today's market. Today, the Exchange believes stock exchanges are able to better handle volume. There are multiple primary listing and unlisted trading privilege (''UTP'') markets, and trading is dispersed among several exchanges and alternative trading systems. In addition, the Exchange believes that surveillance techniques are much more robust and automated. In the early 1990s, it was also thought by some that opening procedures allow more time to attract contra-side interest to reduce imbalances. The Exchange believes, however, that today, order flow is predominantly electronic and the ability to smooth out openings and closes is greatly reduced (*e.g.,* market-on-close procedures work just as well as openings). Also, other markets, such as the NASDAQ Stock Exchange, do not have the same type of pre-opening imbalance disseminations as NYSE, so many stocks are not subject to the same procedures on the third Friday-of-the-month. In addition, the Exchange believes that NYSE has reduced the required time a specialist has to wait after disseminating a pre-opening indication. So, in this respect, the Exchange believes there is less time to react in the opening than in the close. Moreover, to the extent there may be a risk of adverse market effects attributable to p.m. settled options that would otherwise be traded in a non-transparent fashion in the OTC market, the Exchange continues to believe that such risk would be lessened by making these customized options eligible for trading in an exchange environment because of the added transparency, price discovery, liquidity, and financial stability available.

[14] Rule 8.43(a) provides that ''[i]n a manner and form prescribed by the Exchange, each Trading Permit Holder shall report to the Exchange, the name, address, and social security or tax identification number of any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of option contracts dealt in on the Exchange. The report shall indicate for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered.'' For purposes of Rule 8.43, the term ''customer'' in respect of any Trading Permit Holder includes ''the Trading Permit Holder, any general or special partner of the Trading Permit Holder, any officer or director of the Trading Permit Holder, or any participant, as such, in any joint, group or syndicate account with the Trading Permit Holder or with any partner, officer or director thereof.'' Rule 8.43(d).

[15] For example, if the Exchange plans on submitting a proposal in April 2023 requesting permanent approval of the pilot program expiring May 8, 2023, the Exchange would have to submit an annual report no later than March 8, 2023 covering the full prior year.

[16] The Exchange is required to submit the interim reports on a quarterly basis within 15 days of the end of each calendar quarter that the pilot is in effect.

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.[17]

As noted in the pilot program's Approval Order, any positions established under the pilot program would not be impacted by the expiration of the pilot program.[18]

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.[19] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[20] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed extension of the pilot program, which permits an additional exercise settlement value, would provide greater opportunities for investors to manage risk through the use of FLEX Options. Further, the Exchange believes that it has not experienced any adverse effects from the operation of the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and are p.m.-settled. The Exchange also believes that the extension of the exercise settlement values pilot does not raise any unique regulatory concerns. In particular, although p.m. settlements may raise questions with the Commission, the Exchange believes that, based on the Exchange's experience in trading FLEX Options to date and over the pilot period, market impact and investor protection concerns will not be raised by this rule change. The Exchange also believes that the proposed rule change would continue to provide Trading Permit Holders and investors with additional opportunities to trade customized options in an exchange environment (which offers the added benefits of transparency, price discovery, liquidity, and financial stability as compared to the over-the-counter market) and subject to exchange-based rules, and investors would benefit as a result.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-Flex expirations and use a p.m. settlement. Cboe Options believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants' ability to trade in an exchange environment that offers the added benefits of transparency, price discovery, liquidity, and financial stability. Therefore, the Exchange does not believe that the proposed rule change will impose any burden on competition.

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[22] and Rule 19b–4(f)(6) thereunder.[23]

A proposed rule change filed under Rule 19b–4(f)(6)[24] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[25] the Commission may 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 such waiver will allow the Exchange to extend the pilot program 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 program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[26]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

[17] Available at *https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/pm-settlement-flex-pm-data.*

[18] For example, a position in a p.m.-settled FLEX Index Option series that expires on the third Friday-of-the-month in January 2020 could be established during the exercise settlement values pilot. If the pilot program were not extended (or made permanent), then the position could continue to exist. However, the Exchange notes that any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction. *See* Approval Order at footnote 3, *supra* note 5.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 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.

[24] 17 CFR 240.19b–4(f)(6).

[25] 17 CFR 240.19b–4(f)(6)(iii).

[26] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–CBOE–2022–053 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2022–053. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2022–053, and should be submitted on or before December 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–24506 Filed 11–9–22; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36634]

Norfolk Southern Railway Company, Tennessee Railway Company, and Tennessee, Alabama & Georgia Railway Company—Corporate Family Exemption

Norfolk Southern Railway Company (NSR), Tennessee Railway Company (TRC), and Tennessee, Alabama & Georgia Railway Company (TAG) (collectively, Applicants) have jointly filed a verified notice of exemption for a corporate family transaction under 49 CFR 1180.2(d)(3).

According to the verified notice, both TRC and TAG are wholly owned, direct subsidiaries of NSR.[1] Applicants state that NSR, together with its rail subsidiaries, operates approximately 19,300 route miles in 22 states and the District of Columbia. Under the proposed transaction, TRC and TAG will be merged with and into NSR. Applicants state that the purpose of the transaction is to improve operating and administrative efficiencies within the corporate family. According to Applicants, the proposed transaction will not result in any significant changes in rail operations over the properties owned by TRC and TAG.

The verified notice states that the agreement for the proposed transaction will not involve restrictions on interchange with railroads outside the corporate family.

Although Applicants state in their verified notice that the proposed transaction is scheduled to be consummated on or after November 11, 2022, this transaction may not be consummated until November 24, 2022 (30 days after the verified notice was filed).[2]

The verified notice states that the proposed transaction is within Applicants' corporate family and will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(3).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Accordingly, this transaction is subject to the standard employee protective conditions in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C 60, *aff'd New York Dock Railway* v. *United States,* 609 F.2d 83 (2d Cir. 1979).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 17, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36634, 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, one copy of each pleading must be served on Applicants' representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave, NW, Suite 300, Washington, DC 20037.

According to Applicants, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and historic preservation reporting under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: November 7, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2022–24565 Filed 11–9–22; 8:45 am]

BILLING CODE 4915–01–P

[1] The verified notice states TRC is a Class III railroad that operates over approximately 0.95 miles of rail line in Tennessee, and TAG is a Class III railroad that owns and/or operates over approximately 19.7 miles of rail line in Tennessee, Alabama, and Georgia.

[2] Applicants initially submitted their verified notice of exemption on October 11, 2022, but supplemented it on October 25, 2022. Therefore, October 25, 2022, is the filing date.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36644]

Mid-Atlantic Gateway LLC—Lease and Operation Exemption—Certain Rail Line Assets of J.P. Rail, Inc. d/b/a Southern RR Company of New Jersey

Mid-Atlantic Gateway LLC (MAG), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease and operate over approximately 0.12 miles (634 linear feet) of track, located between mileposts 56.99 and 56.87 on the Pleasantville Branch Line in Atlantic County, N.J. (the Line).

According to MAG, the Line is currently owned by J. P. Rail, Inc. d/b/a Southern RR Company of New Jersey (J.P. Rail), a Class III carrier. MAG states that it has reached an agreement in principle with J.P. Rail under which MAG will acquire by lease and operate over the Line. The verified notice states that MAG will hold itself out to provide common carrier rail freight service pursuant to its agreement with J.P. Rail.

MAG certifies that its projected annual revenues from this transaction will not result in its becoming a Class I or Class II rail carrier and will not exceed $5 million. MAG also certifies that the proposed transaction does not include an interchange commitment.

The transaction may be consummated on or after November 27, 2022, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 18, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36644, 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 MAG's representative, Robert McGurk, CEO, Mid-Atlantic Gateway LLC, 34 Millrace Lane, Rockland, DE 19732.

According to MAG, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: November 4, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Raina White,

Clearance Clerk.

[FR Doc. 2022–24544 Filed 11–9–22; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21102]

WeDriveU, Inc.—Acquisition of Control—TransAction Corporate Shuttle, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On October 13, 2022, WeDriveU, Inc. (WeDriveU or Applicant), a noncarrier, filed an application for WeDriveU to acquire direct control of an interstate passenger motor carrier, TransAction Corporate Shuttle, Inc. (TCS), from its sole shareholder, Cynthia C. Frené (Seller). The Board is tentatively approving and authorizing this transaction. If no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by December 26, 2022. If any comments are filed, WeDriveU may file a reply by January 9, 2023. If no opposing comments are filed by December 26, 2022, this notice shall be effective on December 27, 2022.

ADDRESSES: Comments may be filed with the Board either via e-filing on the Board's website or mailing to the Board's offices. Comments may be e-filed at *www.stb.gov/proceedings-actions/e-filing/other-filings/* and must reference Docket MCF 21102. Mailed comments may be sent to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, one copy of comments must be sent to WeDriveU's representative: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: According to the application, WeDriveU is a California corporation headquartered in Burlingame, Cal. (Appl. 2.) WeDriveU is indirectly and wholly owned and controlled by National Express Group, PLC (NEG), a publicly held British corporation listed on the London Stock Exchange since 1992.[1] NEG does not have interstate carrier authority. (*Id.*) NEG owns and controls all equity and voting interest in the following interstate motor carriers (collectively, the Affiliate Regulated Carriers) that hold interstate passenger motor carrier authority:[2]

- A&S Transportation, Inc., which primarily provides non-regulated student school bus transportation and occasional charter passenger services in Delaware, Florida, Georgia, Indiana, Louisiana, and Texas;
- Durham School Services, L.P., which primarily provides non-regulated student school bus transportation and occasional charter passenger services in 32 states;
- Fox Bus Lines Inc., which does business as Silver Fox Coaches and provides airport shuttle services in Massachusetts; interstate and intrastate passenger charter services in Massachusetts and the surrounding areas, and tour services in and to areas of New York City, Boston, and other parts of New England;
- Petermann Ltd., which primarily provides non-regulated student school bus transportation and occasional charter passenger services in Ohio;
- Petermann STSA, LLC, which primarily provides non-regulated student school bus transportation and occasional charter passenger services in Kansas;
- Quality Bus Service LLC, which primarily provides non-regulated student school bus transportation and occasional charter passenger services in New York's Orange and Ulster counties;
- Transit Express Inc., which provides paratransit services in the Milwaukee, Wis., metropolitan area;
- Trinity, Inc., which provides non-regulated student school bus transportation and motor coach charter passenger services in southeastern Michigan;
- Trinity Student Delivery LLC, which primarily provides non-regulated student school bus transportation and occasional charter passenger services in the Toledo and Cleveland areas in Ohio;
- WeDriveU America LLC, which provides interstate and intrastate passenger charter services in Illinois, Indiana, and surrounding states;
- White Plains Bus Company, Inc., which does business as Suburban

[1] More information about NEG's corporate structure and ownership can be found in the application. (*See* Appl. at 2, 8, Ex. B.)

[2] Further information about these motor carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (*See id.* at 2–7, Ex. A.)

Paratransit Services and primarily provides non-regulated student school bus transportation, paratransit, and limited charter services in Westchester County, N.Y.; and

• Wise Coaches, Inc., which provides intrastate passenger charter and shuttle services in Tennessee and interstate passenger charter services in Tennessee and surrounding states.

According to the application, NEG also has operating subsidiaries that provide transportation services not involving regulated interstate transportation or requiring interstate passenger authority in the United States (together with the Affiliate Regulated Carriers, the Applicant Subsidiaries). (*Id.* at 2.)

The application explains that TCS, the motor carrier being acquired, is a Massachusetts corporation that provides fixed-route commuter, municipal shuttle bus, and on-demand transportation services for employees of businesses and communities in Massachusetts, as well as minibus, van, and limousine charter services.[3] (*Id.* at 7.) TCS utilizes approximately 103 passenger vehicles and employs approximately 89 drivers. (*Id.*) TCS holds interstate operating authority under FMCSA Docket No. MC–522885 and has a USDOT Safety Rating of ''Satisfactory.''[4] According to the application, TCS is solely owned by Seller, who does not directly or indirectly own or control any other interstate passenger motor carrier. (*Id.*) WeDriveU says that it will acquire all issued and outstanding equity stock interest of TCS as a result of this transaction, which will place TCS under WeDriveU and NEG's control. (*Id.* at 8.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges resulting from the proposed transaction, and (3) the interest of affected carrier employees. WeDriveU has submitted the information required by 49 CFR 1182.2, including information demonstrating that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (*See* Appl. 9–13.)

WeDriveU asserts that the proposed transaction is not expected to have a material, detrimental impact on the adequacy of transportation services available to the public. (*Id.* at 9.) WeDriveU states that TCS will continue to operate and provide its services under the same name used prior to this transaction, but that it will operate within the NEG corporate family, which is experienced in passenger transportation operations. (*Id.* at 9–10.) WeDriveU explains that the Affiliate Regulated Carriers operate in some of the same market segments already served by TCS, so this acquisition is expected to result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale, all of which will help to ensure the provision of adequate service to the public. (*Id.* at 10.) WeDriveU also asserts that the addition of TCS to the NEG corporate family will enhance the viability of the overall NEG organization and the Applicant Subsidiaries. (*Id.*)

WeDriveU claims that neither competition nor the public interest will be adversely affected by this proposed transaction. (*See id.* at 11–13.) WeDriveU explains that the market for the transportation services provided by TCS is competitive in the area where TCS operates due to the significant number of competing local, regional, and national charter service providers operating within the same area, including A&A Metro Transportation, M & L Transit Systems, Boston Coach, Academy Bus, and Local Motion of Boston. (*Id.* at 12.) In addition, WeDriveU notes that TCS competes directly with other types of passenger service providers, including scheduled rail and bus transportation within the area. (*Id.*) Finally, WeDriveU states that the area in which TCS operates is geographically ''dispersed'' from the service areas of the Affiliate Regulated Carriers and that there is ''very limited overlap'' in the service areas and customer bases among the Affiliate Regulated Carriers and TCS. (*Id.* at 13.)

WeDriveU states that the proposed transaction will increase fixed charges in the form of interest expenses because funds will be borrowed to assist in financing the transaction, but it maintains that the increase will not impact the provision of transportation services to the public. (*Id.* at 10–11.) WeDriveU also represents that the transaction is not expected to have substantial impacts on employees or labor conditions, and it does not anticipate a measurable reduction in force or changes in compensation levels or employment benefits. (*Id.* at 11.) However, WeDriveU acknowledges that staffing redundancies could result in limited downsizing of back-office or managerial personnel. (*Id.*)

Based on WeDriveU's representations, the Board finds that the acquisition as proposed in the application is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective December 27, 2022, unless opposing comments are filed by December 26, 2022. If any comments are filed, Applicant may file a reply by January 9, 2023.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: November 4, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2022–24526 Filed 11–9–22; 8:45 am]

BILLING CODE 4915–01–P

[3] WeDriveU states that TCS will convert to an LLC prior to the closing of the transaction. (Appl. 1 n.1.)

[4] Additional information about TCS, including information about operations pursuant to state authority, can be found in the application. (*See id.* at 7.)

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Final Agency Actions on Proposed Railroad Project in California, on Behalf of the California High-Speed Rail Authority

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: FRA, on behalf of the California High-Speed Rail Authority (Authority), is issuing this notice to announce actions taken by the Authority that are final. By this notice, FRA is advising the public of the time limit to file a claim seeking judicial review of the actions. The actions relate to the California High-Speed Rail San Francisco to San Jose Project Section (Project). These actions grant approvals for project implementation pursuant to the National Environmental Policy Act (NEPA) and other laws, regulations, and executive orders.

DATES: A claim seeking judicial review of the agency actions on the Project will be barred unless the claim is filed on or before November 12, 2024. If Federal law later authorizes a time period of less than 2 years for filing such claim, then that shorter time period applies.

FOR FURTHER INFORMATION CONTACT:

For the Authority: Scott Rothenberg, NEPA Assignment Manager, Environmental Services, California High-Speed Rail Authority, telephone: (916) 403–6936; email: *Scott.Rothenberg@hsr.ca.gov.*

For FRA: Lana Lau, Supervisory Environmental Protection Specialist, Office of Environmental Program Management (RRD–30), telephone: (202) 923–5314; email: *Lana.Lau@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 23, 2019, the FRA assigned, and the State of California acting through the Authority assumed, environmental responsibilities for the California High-Speed Rail (HSR) System pursuant to 23 U.S.C. 327. Notice is hereby given that the Authority has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) and 49 U.S.C. 24201(a)(4) by issuing approvals for the Project.

The purpose of the California HSR System [1] is to provide a reliable, high-speed, electric-powered train system that links the major metropolitan areas of California, delivering predictable and consistent travel times. A further objective is to provide an interface with commercial airports, mass transit, and the highway network, and to relieve capacity constraints of the existing transportation system as increases in intercity travel demand in California occur, in a manner sensitive to and protective of California's unique natural resources.

The Authority has selected the HSR Build Alternative A, with modified Caltrain stations for HSR at 4th and King Street and Millbrae Station, the Millbrae Station Design, the East Brisbane light maintenance facility, and associated project elements, for the portion of the Project between the 4th and King Street Station in San Francisco and Scott Boulevard in Santa Clara, as identified in the Final Environmental Impact Statement (Final EIS) and Record of Decision (ROD) for the Project, because the Selected Alternative (1) best satisfies the Purpose, Need, and Objectives for the Project and (2) minimizes impacts on the natural and human environment by utilizing an existing transportation corridor where practicable and incorporating mitigation measures where practicable.

The Authority previously approved the portion of the Project between Scott Boulevard in Santa Clara and West Alma Avenue in San Jose (including the San Jose Diridon Station) as part of the San Jose to Merced Project Section (87 FR 37373). The actions by the Authority, and the laws under which such actions were taken, are described in the Project's Final EIS published on June 10, 2022, and the ROD signed on October 14, 2022. The ROD, Final EIS, and other documents will be available online in PDF at the Authority's website (*www.hsr.ca.gov*) and via electronic media by calling (916) 324–1541.

This notice applies to the ROD, Final EIS, and all other Federal agency decisions with respect to the Project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. NEPA;
2. Council on Environmental Quality regulations (1978); [2]
3. Fixing America's Surface Transportation Act;
4. Department of Transportation Act of 1966, Section 4(f);
5. Land and Water Conservation Fund Act of 1965, Section 6(f);
6. Clean Air Act Amendments of 1990;
7. Clean Water Act of 1977 and 1987;
8. Endangered Species Act of 1973;
9. Migratory Bird Treaty Act;
10. National Historic Preservation Act of 1966, as amended;
11. Executive Order 11990, Protection of Wetlands;
12. Executive Order 11988, Floodplain Management;
13. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
14. Executive Order 13112, Invasive Species.

Issued in Washington, DC.

Jamie P. Rennert,

Director, Office of Infrastructure Investment.

[FR Doc. 2022–24523 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–06–P

[1] The California HSR System would be implemented in two phases. Phase 1 would connect San Francisco to Los Angeles and Anaheim via the Pacheco Pass and the southern Central Valley. Phase 2 would extend the HSR system from the Central Valley (starting at the Merced Station) to the state's capital in Sacramento and from Los Angeles to San Diego.

[2] The Council on Environmental Quality (CEQ) issued new regulations on July 14, 2020, effective September 14, 2020, updating the NEPA implementing procedures at 40 CFR 1500 through 1508. However, this project initiated NEPA before the effective date and relies on the CEQ regulations as they existed prior to September 14, 2020. All subsequent citations to the CEQ regulations in the ROD and Final EIS refer to the 1978 regulations, consistent with 40 CFR 1506.13 (2020) and the preamble at 85 FR 43340.

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2022–0034]

Agency Information Collection Activity Under OMB Review: National Transit Database (NTD)

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

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before December 12, 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: Whether the proposed collection of information is necessary for the proper performance

of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590 (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On July 19, 2022, FTA published a 60-day notice (87 FR 43102) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c). Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: National Transit Database.

OMB Control Number: 2132–0008.

Background: The National Transit Database (49 U.S.C. 5335(a) and (b) requires the Secretary of Transportation to maintain a reporting system, using a uniform system of accounts, to collect financial and operating information from the nation's public transpoation systems. Congress created the NTD to be the repository of transit data for the nation to support public transportation service planning. FTA has established the NTD to meet these requirements, and has collected data for over 35 years. The NTD is comprised of multiple modules, including Rural, Urban Annual, Monthly, and Safety Event Reporting. FTA continues to seek ways to reduce the burden of NTD reporting. FTA has expanded collected summarized data, including frequency counts where possible. This approach greatly reduces the burden facing transit operators reporting to the NTD.

Estimated Annual Number of Respondents: 2,481 respondents.

Estimated Annual Number of Responses: 2,481.

Estimated Total Annual Burden Hours: 456,179 hours.

Frequency: Annually.

Nadine Pembleton,

Deputy Associate Administrator, Office of Administration.

[FR Doc. 2022–24586 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2022–0030]

Agency Information Collection Activity Under OMB Review: Enhanced Mobility of Seniors and Individuals With Disabilities & Nonurbanized Area Formula Programs

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Enhanced Mobility Seniors and Individuals with Disabilities & Nonurbanized Area Formula Programs.

DATES: Comments must be submitted before January 9, 2023.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Destiny Buchanan at (202) 493–8018, or email *Destiny.Buchanan@dot.gov* (Section 5310); Matt Lange at (312) 353–

4118, or email *Matthew.Lange@dot.gov* (Section 5311)

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 5310—Enhanced Mobility of Seniors and Individuals with Disabilities Program & Section 5311—Nonurbananized Area Formula Programs.

OMB Number: 2132–0550.

Background: 49 U.S.C. 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program provides formula funding to states and designated recipients to meet the transportation needs of older adults and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs. Funds are apportioned based on each state's share of the population for these two groups. Formula funds are apportioned to designated recipients; for rural and small urban areas, this is the state Department of Transportation or a local government entity that operates a public transportation service, while in large urban areas, a designated recipient is chosen by the governor. Designated recipients have flexibility in how they select subrecipient projects for funding, but their decision process must be clearly noted in a state/program management plan. The selection process may be formula-based, competitive or discretionary, and subrecipients can include states or local government authorities, private non-profit organizations, and/or operators of public transportation. The program aims to improve mobility for older adults and people with disabilities by removing barriers to transportation service and expanding transportation mobility options. This program supports transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all areas—large urbanized (over 200,000), small urbanized (50,000–200,000), and rural (under 50,000). Eligible projects include both ''traditional'' capital investment and ''nontraditional'' capital or operating investment beyond the Americans with Disabilities Act (ADA) complementary paratransit services.

49 U.S.C. 5311—Formula Grants for Rural Areas Program provides capital, planning, and operating assistance to states to support public transportation in rural areas with populations of less than 50,000, where many residents often rely on public transit to reach their destinations. The program also provides funding for state and national training and technical assistance through the Rural Transportation Assistance Program. Eligible direct recipients are States and Indian Tribes. Eligible subrecipients include states and local governmental authorities, nonprofit organizations, and operators of public transportation or intercity bus service. The Tribal Transit program provides funding directly to federally recognized Indian Tribes for capital, operating, and planning purposes, through a formula and a competitive program.

Respondents: States or local governmental entities that operate a public transportation service, federally recognized Indian Tribes, and designated recipients; or eligible subrecipients.

Estimated Annual Number of Respondents: 523 respondents.

Estimated Total Annual Burden: 54,727 hours.

Frequency: Annual.

Nadine Pembleton,

Deputy Associate Administrator, Office of Administration.

[FR Doc. 2022–24582 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2022–0033]

Agency Information Collection Activity Under OMB Review: National Transit Asset Management (TAM) System

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: National Transit Asset Management (TAM) System.

DATES: Comments must be submitted before January 9, 2023.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tamalynn Kennedy at (202) 366–7573, or email *tamalynn.kennedy@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection

for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: National Transit Asset Management (TAM) System.

OMB Number: 2132–0579.

Background: Transit Asset Management (TAM) is a business model that prioritizes funding based on the condition of transit assets to achieve and maintain a state of good repair for the nation's public transportation assets. The TAM program enables transit agencies to implement strategic approaches to monitoring, maintaining, and replacing transit assets. Federal requirements for transit asset management applies to all recipients and sub-recipients of Chapter 53 funds that own, operate, or manage public transportation capital assets. It is a framework for transit agencies to monitor and manage public transportation assets, improve safety, increase reliability and performance, and establish performance measures in order to help agencies keep their systems operating smoothly and efficiently. FTA's TAM rule requires transit agencies to develop a compliant TAM plan, set performance targets for capital assets, create data and narrative reports on performance measures, and coordinate with their planning partners. Transit agencies are required to submit their performance measures and targets to the National Transit Database.

Respondents: All recipients and sub-recipients of Chapter 53 funds that own, operate, or manage public transportation capital assets.

Estimated Annual Number of Respondents: 2,915.

Estimated Annual Number of Responses: 932.

Estimated Total Annual Burden: 378,004.

Frequency: Annual.

Nadine Pembleton,

Deputy Associate Administrator, Office of Administration.

[FR Doc. 2022–24584 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2022–0032]

Agency Information Collection Activity Under OMB Review: Bus and Bus Facilities Program

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection and update the name of this information collection to Buses and Bus Facilities Formula, Competitive and Low or No Emissions Program.

DATES: Comments must be submitted before January 9, 2023.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Wilson at (202) 366–5279, or email *Thomas.Wilson@dot.gov* and Mark Bathrick at (202) 366–9955, or email: *Mark.Bathrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. 5339 Bus and Bus Facilities Program.

OMB Number: 2132–0576.

Background: The Buses and Bus Facilities Program (49 U.S.C. 5339) makes federal resources available to states, designated recipients, and local governmental entities that operate fixed route bus service to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low- or no-emission vehicles or facilities. Funding is provided through formula allocations and competitive grants. Two sub-programs provide competitive grants for buses and bus facility projects, including one that supports low and zero-emission vehicles. Under this renewal FTA will seek to update the name of this information collection to Buses and Bus Facilities Formula, Competitive and Low or No Emissions Program to coincide with eligible funding activities.

Respondents: State or local governmental entities; and federally

recognized Indian tribes that operate fixed route bus service that are eligible to receive direct grants under 5307 and 5311.

Estimated Annual Number of Respondents: 1,035 respondents.

Estimated Annual Number of Responses: 1,035 responses.

Estimated Total Annual Burden: 57,830 hours.

Frequency: Annually.

Nadine Pembleton,

Deputy Associate Administrator, Office of Administration.

[FR Doc. 2022–24583 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2022–0033]

Agency Information Collection Activity Under OMB Review: State of Good Repair Program

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection.

DATES: Comments must be submitted before January 9, 2023.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donna Iken at (202) 366–0876, or email: *donna.iken@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 5337 State of Good Repair Program.

OMB Number: 2132–0577.

Background: 49 U.S.C. Section 5337, the State of Good Repair Grants Program authorizes the Secretary of Transportation to make grants to designated recipients to maintain, replace, and rehabilitate high intensity fixed guideway systems and high intensity motorbus systems in a state of good repair. Projects that are eligible for the State of Good Repair Program funds must be in a recipient's Transit Asset Management plan. Eligible recipients include state and local governmental authorities in urbanized areas with high intensity fixed guideway systems and/or high intensity motorbus systems operating for at least seven years. Projects are funded at 80 percent federal with a 20 percent local match requirement by statute. FTA will apportion funds to designated recipients. The designated recipients will then allocate funds as appropriate to recipients that are public entities in the urbanized areas. FTA can make grants to direct recipients after sub-allocation of funds. Recipients apply for grants electronically, and FTA collects milestone and financial status reports from designated recipients on a quarterly basis. The Competitive Rail Vehicle Replacement Grant (Rail Program) is a discretionary grant program to assist in funding the replacement of rail rolling stock. The Rail Program (49 U.S.C. 5337(f)) a set-aside of the State of Good Repair Formula Grants Program (49 U.S.C. 5337).

The information submitted ensures FTA's compliance with applicable federal laws.

Respondents: States and local governmental authorities.

Estimated Annual Number of Responses: 1,044.

Estimated Total Respondents: 68.

Estimated Total Annual Burden: 13,217 hours.

Frequency: Annual.

Nadine Pembleton,

Deputy Associate Administrator, Office of Administration.

[FR Doc. 2022–24585 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0228]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: YACHTLY CREW (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from

interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 12, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0228 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0228 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0228, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel YACHTLY CREW is:

—*Intended Commercial use of Vessel:* ''Owner intends to carry passengers for bay, ocean and trips to Catalina Island on a limited and exclusive basis.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Newport Beach, CA)

—*Vessel Length and Type:* 50′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0228 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0228 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–24581 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0230]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: REEL BLESSED (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 12, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0230 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0230 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0230, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel REEL BLESSED is:

—*Intended Commercial Use of Vessel:* ''Charter fishing.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Destin, FL)

—*Vessel Length and Type:* 35′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0230 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0230 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–24580 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0227]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: BEIRUT (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 12, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0227 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0227 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location

address is: U.S. Department of Transportation, MARAD–2022–0227, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel BEIRUT is:

—*Intended Commercial Use of Vessel:* ''Chartered recreational sightseeing within Santa Monica Bay, CA and near coastal vicinity.''
—*Geographic Region Including Base of Operations:* ''California.'' (Base Of Operations: Marina Del Rey, CA)
—*Vessel Length and Type:* 57.8′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0227 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0227 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–24577 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0231]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: INTEGRITY (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 12, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0231 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0231 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0231, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body

of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel INTEGRITY is:

—*Intended Commercial use of Vessel:* ''Bareboat charter.''
—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Port Everglades, FL)
—*Vessel Length and Type:* 40′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0231 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0231 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–24579 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0229]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DIVERSION (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 12, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0229 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0229 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0229, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel DIVERSION is:

—*Intended Commercial Use of Vessel:* ''To run day and overnight charters.''
—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Key Largo, FL)
—*Vessel Length and Type:* 43′ Motor (Power Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0229 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0229 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2022–24578 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0093]

Deepwater Port License Application: Texas GulfLink LLC; Extension of Supplemental Draft Environmental Impact Statement Comment Period

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of extension of the Supplemental Draft Environmental Impact Statement comment period.

SUMMARY: By **Federal Register** notice of Friday, September 30, 2022, titled *Notice of Availability; Notice of Virtual Public Meetings; Request for Comments,* the Maritime Administration (MARAD), in coordination with the U.S. Coast Guard (USCG), announced the availability of the Supplemental Draft Environmental Impact Statement (SDEIS) for the Texas GulfLink LLC (GulfLink) deepwater port license application for the export of crude oil from the United States to nations abroad. Publication of the September notice announced a 45-day comment period, requested public participation in the environmental impact review process, provided information on how to participate in the environmental impact review process, and announced the virtual public meeting and an informational open house website for the SDEIS. The notice also provided that the comment period would end on November 14, 2022. MARAD is extending the public comment period to November 30, 2022, to allow the public and interested parties a full 45 days to review the SDEIS and provide written comments.

DATES: Comments or related material on the Texas GulfLink deepwater port license application must be received by November 30, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0093 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov,* search MARAD–2019–0093 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* The Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2019–0093, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590.

Faxed, mailed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches and suitable for copying and electronic scanning. The format of electronic submissions should also be no larger than 8½ by 11 inches. If you mail your submission and want to know when it reaches the Federal Docket Management Facility, please include a stamped, self-addressed postcard or envelope.

Note: If you mail or hand-deliver your comments, we recommend that you

include your name and a mailing address, an email address, and/or a telephone number on a cover page, so that we can contact you if we have questions regarding your submission. Instructions: All submissions received must include the agency name and specific docket number (MARAD–2019–0093). All comments received will be posted without change to the docket at *https://www.regulations.gov,* including any personal information provided. For additional information please contact USCG via email at *DeepwaterPorts@uscg.mil* and MARAD via email at *GulfLink_EIS@dot.gov.* Include ''MARAD–2019–0093'' in the subject line of the message. These email addresses will not be relied on for the intake of comments on the GulfLink deepwater port license application. To submit written comments and other material submissions, please follow the directions above.

SUPPLEMENTARY INFORMATION:

Request for Comments

We request public comment on the GulfLink SDEIS. The comments may relate to, but are not limited to, the environmental impact of the proposed action. You may submit comments directly to the Federal Docket Management Facility during the public comment period (see **ADDRESSES**). We will consider all substantive comments and material received during the extended comment period.

The license application, comments, and associated documentation, as well as the DEIS, SDEIS and the Final Environmental Impact Statement (when published), are available for viewing at the Federal Docket Management System website: *https://www.regulations.gov* under docket number MARAD–2019–0093.

This extension is intended to accommodate public review of a version of the SDEIS, which displays horizontal lines in the margins, indicating changes made to the Draft Environmental Impact Statement (DEIS). An unmarked version of the SDEIS was posted on September 30, 2022, on the project's docket at *https://www.regulations.gov.* Other than the addition of the horizontal lines in the margins indicating changes made to the DEIS, there have been no further changes made to the document from that published on September 30, 2022.

All comments submitted to the docket via *https://www.regulations.gov* or delivered to the Federal Docket Management Facility will be posted, without change, to the Federal Docket Management Facility website (*https://www.regulations.gov*) and will include any personal information you provide. Therefore, submitting this information to the docket makes it public. You may wish to read the Privacy and Use Notice that is available on the FDMS website and the Department of Transportation Privacy Act Notice that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477), see Privacy Act. You may view docket submissions at the Federal Docket Management Facility or electronically on the FDMS website.

Privacy Act

The electronic form of all comments received into the Federal Docket Management System can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The Department of Transportation Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or by visiting *https://www.regulations.gov.*

(Authority: 33 U.S.C. 1501, *et seq.,* 49 CFR 1.93(h)).

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–24487 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2018–0190]

Aviation Consumer Protection Advisory Committee; Notice of Public Meeting

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This Notice announces a two-day public meeting of the Aviation Consumer Protection Advisory Committee (ACPAC), to be held virtually. On the first day, the ACPAC will consider the Department's notice of proposed rulemaking (NPRM) on Enhancing Transparency of Airline Ancillary Service Fees. On the second day, the ACPAC will deliberate on three topics: information provided to consumers adversely affected by airline delays or cancellations, availability of airline flight information, and the Department's NPRM on Airline Ticket Refunds and Consumer Protections.

DATES: The virtual meeting will be held on Thursday, December 8, 2022, from 10:00 a.m. to 5:30 p.m., and on Friday, December 9, 2022, from 10:00 a.m. to 5:30 p.m. Eastern Standard Time. The meeting is open to the public, subject to any technical and/or capacity limitations. Requests to attend the meeting must be submitted to *https://usdot.zoomgov.com/webinar/register/WN_V2zwVF3RQfuoOkyYFVqvdA.* We encourage interested parties to register by December 1, 2022. Communication Access Real-time Translation (CART) and sign language interpretation will be provided during the meeting. Requests for additional accommodations because of a disability must be received at *ACPAC@dot.gov* by December 1, 2022. If you wish to speak during the meeting, you should submit a request at *ACPAC@dot.gov* no later than December 1, 2022.

ADDRESSES: The virtual meeting will be open to the public and held via the Zoom Webinar Platform. Virtual attendance information will be provided upon registration. An agenda will be available on the Department's Office of Aviation Consumer Protection website at *https://www.transportation.gov/airconsumer/ACPAC* in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: To register and attend this virtual meeting, please use the link: *https://usdot.zoomgov.com/webinar/register/WN_V2zwVF3RQfuoOkyYFVqvdA.*

Attendance is open to the public subject to any technical and/or capacity limitations. For further information, please contact Cristina Draguta, Attorney-Advisor, by email at *Cristina.Draguta@dot.gov* or telephone at (202) 366–6137.

SUPPLEMENTARY INFORMATION:

I. Background

The ACPAC evaluates the Department of Transportation's aviation consumer protection programs and provides recommendations to the Secretary for improving them, as well as recommending any additional consumer protections that may be needed.

During the June 28, 2022, meeting of the ACPAC, the subject of transparency of airline ancillary service fees was considered as members heard presentations about previous Department actions in this area and the perspectives of various stakeholders. On September 26, 2022, the Department announced the Enhancing Transparency of Airline Ancillary Service Fees NPRM (RIN 2105–AF10) (Ancillary Fees Transparency NPRM) and made the rulemaking available on its website and *regulations.gov.* Since then, the Ancillary Fees Transparency NPRM has been published in the **Federal Register** and is available at *https://www.federalregister.gov/documents/*

2022/10/20/2022-22214/enhancing-transparency-of-airline-ancillary-service-fees. The ACPAC will meet on December 8, 2022, to hear from the public and consider the proposals in the Department's Ancillary Fees Transparency NPRM.

The ACPAC will also meet on December 9, 2022, to discuss, deliberate, and decide on recommendations, if any, to the Department on three topics considered at previous ACPAC meetings: (1) information provided to consumers adversely affected by airline delays or cancellations (December 2, 2021 meeting); (2) availability of airline flight information (June 29, 2022 meeting); and (3) the Department's Airline Ticket Refunds and Consumer Protections NPRM (August 22, 2022 meeting). More information regarding prior meetings, including recordings of meetings, can be found on the ACPAC web pages available here: *https://www.transportation.gov/airconsumer/ACPAC.*

II. Agenda

A. December 8, 2022, Meeting

During the December 8, 2022, meeting, the Department will provide an opportunity for public input and continue the discussion on airline ancillary service fee transparency. Pursuant to 49 U.S.C. 41712, which prohibits U.S. air carriers, foreign air carriers, and ticket agents from engaging in unfair or deceptive practices in the sale of air transportation, the Department's Ancillary Fees Transparency NPRM proposes to require carriers and ticket agents to clearly disclose baggage fees, change fees, and cancellation fees to consumers whenever fare and schedule information is provided to consumers for flights to, within, and from the United States. The Ancillary Fees Transparency NPRM also proposes to require these entities to clearly disclose whenever fare and schedule information is provided the fees for adjacent seating, if any, to consumers traveling with young children on flights to, within, and from the United States, and make these fees transactable. The Department is proposing that all of these disclosures be provided on a passenger-specific or itinerary-specific basis. The Department is also proposing to require that carriers provide useable, current, and accurate information regarding these fees to ticket agents that sell or display the carrier's fare and schedule information.

The public should submit comments to the rulemaking Docket (DOT–OST–2022–0109) on or before December 19, 2022, to ensure that comments submitted will be considered. The Department also intends to consider the discussion and information provided during this December 8, 2022, meeting of the ACPAC to inform this rulemaking. This meeting will also allow the ACPAC to hear from all interested stakeholders regarding the Department's proposals and what the ACPAC should consider as it determines what recommendations, if any, to make to the Department on this topic.

B. December 9, 2022, Meeting

The ACPAC will consider and deliberate on three topics at the December 9, 2022, meeting that were previously discussed: (1) information provided to consumers adversely affected by airline delays or cancellations (December 2, 2021, meeting); (2) availability of airline flight information (June 29, 2022, meeting); and (3) the Department's Airline Ticket Refunds and Consumer Protections NPRM (August 22, 2022, meeting). More information regarding prior meetings, including recordings of meetings, can be found on the ACPAC web pages available here: *https://www.transportation.gov/airconsumer/ACPAC.* The ACPAC will consider each topic carefully and deliberate and decide on recommendations, if any, to make to the Department on these topics.

III. Public Participation

A. December 8, 2022, Meeting

The December 8, 2022, meeting will begin at 10:00 a.m. EST, and the Department will provide time for a welcome, introductions, and opening remarks. The meeting will then transition to an overview of the NPRM and questions and comments from the ACPAC members. This discussion will be followed by comments from members of the public. There will be a lunch break and further input and discussion will continue in the afternoon to help inform the ACPAC members on what they should consider when making recommendations, if any, on this topic in the future. While the Department seeks comment on any aspect of the proposed rule, the Department summarizes the main proposals of the NPRM below and requests information on the following specific questions regarding these proposals:

1. Disclosure of Baggage Fees

The Proposal:

Covered Entities: U.S. air carriers, foreign air carriers, and ticket agents.

Proposed Disclosure Requirement: provide the fee for a first checked bag, a second checked bag, and a carry-on bag, adjusted based on passenger-specific information.

Location/Method of Disclosure: website marketed to U.S. consumers where air transportation is advertised or sold; in-person or on the phone with an agent.

Timing of Online Disclosure: first page displaying search results that include fare and schedule information in response to a consumer search for air transportation (no links or pop-ups).

Timing of In Person or Phone Disclosure: at the time a fare is quoted for an itinerary.

Other Proposed Requirements: seller must refund money collected for fees if the fee was not properly disclosed; weight and dimension limitations must be displayed (links or pop-ups acceptable); disclosure to consumer if checking or carrying a bag is prohibited under fare category.

Question 1(a): The Department requests comment on whether disclosure of baggage fees by links or rollovers should be permitted. The Department seeks comment on whether links and rollovers would provide the necessary flexibility to allow for design displays that would enhance the user experience and encourage innovation as technology changes. Are additional flexibilities needed to ensure the display of ancillary service fee information does not result in screen clutter? Do rollovers work on mobile devices that have no cursor to hover over a link?

Question 1(b): The Department requests comment on the benefits, risks, and practicability of requiring carriers and ticket agents to enable consumers to conduct anonymous or passenger-specific itinerary searches and to provide fee information tailored to the search type.

Question 1(c): The Department requests comment on its proposal that online bag fee disclosures be disclosed at the first point in a search process where a fare is listed in connection with a specific itinerary.

Question 1(d): The Department seeks comment on whether the volume of information proposed to be displayed would assist or overwhelm consumers and whether or not an opt-out provision would be beneficial to consumers. We are also interested in learning what impact, if any, lack of an opt-out provision has on the speed of search results or particular display options an airline or ticket agent may provide. For commenters advocating an opt-out option, we also request information about how to define requirements for opt-out options that would adequately

protect consumers and ensure any opt-out option is not confusing or abused, for example, preventing opt-outs accomplished through a ''click wrap'' or ''browser wrap'' tactic that does not represent a meaningful, intentional choice.

Question 1(e): The Department seeks comment on whether the proposed disclosure requirements should also extend to airline and ticket agent mobile apps, and whether there are any practical distinctions between information accessed on mobile websites and mobile apps.

Question 1(f): The Department seeks comment on its proposals that carriers and ticket agents inform consumers of the bag fees that apply when consumers attempt to purchase airline tickets offline, in person, or on the phone. The Department is also interested in obtaining input on alternative options for providing such fee information on the phone or in person (*e.g.,* explaining that fees may apply and referring the consumer to the carrier or ticket agent's website, provided that the website is accessible to consumers with disabilities).

2. Disclosure of Change and Cancellation Fees and Policies

The Proposal:

Covered Entities: U.S. air carriers, foreign air carriers, and ticket agents.

Proposed Disclosure Requirement: provide the fee to change and cancel the reservation, adjusted based on fare category and passenger-specific information.

Location/Method of Proposed Disclosure Requirement: website marketed to U.S. consumers where air transportation is advertised or sold; in-person or on the phone with an agent.

Timing of Online Disclosure: first page displayed when a consumer conducts a seach for air transportation when fare and schedule information is shown (no links or pop-ups).

Timing of In Person or Phone Disclosure: at the time a fare is quoted for an itinerary.

Other Proposed Requirements Associated with Disclosure: must display a summary of the cancellation and change policies applicable to the intinerary displayed (links or pop-ups allowed).

Question 2(a): The Department requests comment on whether display of cancellation and change fees by links or rollovers should be permitted. Are there preferred methods for presenting the change and cancellation policy information?

Question 2(b): The Department requests comment on the timing of the proposed online fee disclosures. Should the Department allow the proposed disclosures to be provided later in the ticket purchase process than proposed in this NPRM?

Question 2(c): How should the Department address the potential that a consumer could also be required to pay a fare difference between the old and new tickets resulting from airline dynamic pricing models? A ticket change may result in a material change in fare that is potentially a larger component of the overall ticket price relative to the change fee itself. Will displaying only the change fee result in consumer confusion?

3. Disclosure and Transactability of Family Seating Fees

The Proposal:

Covered Entities: U.S. air carriers, foreign air carriers, and ticket agents.

Proposed Disclosure Requirement: provide the fee, if any, for a passenger age 13 years or under to be seated adjacent to the seat of an accompanying adult in the same class of service.

Location/Method of Proposed Disclosure: website marketed to U.S. consumers where air transportation is advertised or sold; in-person or on the phone with an agent.

Conditions for Disclosure: consumer seeks to purchase air transportation in which at least one passenger is 13 years of age or under; carrier imposes a fee for a passenger 13 or under to be seated nest to an accompanying adult.

Timing of Online Disclosure: whenever fare and schedule information is provided, alongside the quoted fare associated with each itinerary search result (no links or pop-ups permitted).

Timing of In Person or Phone Disclosure: at the time a fare is quoted for an itinerary.

Other Proposed Requirements (Transactability): must enable consumer to select and purchase the seat at the time the seat fee is disclosed.

Question (3)(a): Should disclosure be limited to family seating fees or would additional information regarding airline family seating policies be useful to consumers during the ticket purchase process?

Question (3)(b): The Department seeks comment on whether airlines' response to this rulemaking could include reducing or eliminating fees for children to sit next to accompanying adults.

Question (3)(c): What disclosure should be required, if any, when no adjacent seats are available at the time of the consumer's ticket purchase?

Question (3)(d): The Department requests comment on whether to permit the disclosure of the family seating fee through links or pop-ups.

Question (3)(e): Should the Department be more prescriptive about family seat fee disclosure requirements (*e.g.,* requiring that websites be modified to enable consumers to indicate whether a passenger will be 13 or under prior to initiating the search)?

Question (3)(f): Are there technical or other practical considerations for requiring that family seating fees be disclosed and transactable?

Question (3)(g): The Department requests comment on the timing of the proposed online family seating fee disclosures. Should the Department permit these disclosures to be provided later during the booking process, such as after the stage when a consumer inputs passenger name and age information?

4. Sharing of Data and Transactability

The Proposal:

Covered Entities: U.S. air carriers, foreign air carriers that provide fate, schedule, and availability information to ticket agents to sell or display the carrier's flights directly to consumers.

Proposed Requirement: provide useable, current, and accurate information of the fee rules for baggage, ticket changes/cancellation, and for aircraft seats (if the carrier charges a fee for a child to sit next to an accompanying adult), sufficient to enable the ticket agent to comply with disclosure requirements under the rule.

Transactability: Carriers must ensure that adjacent seating fees are transactable by ticket agents if the carrier charges a fee for a child to sit next to an accompanying adult.

Question (4): The Department seeks comment on whether the Department should require that carriers provide fee information about critical ancillary services to Global Distribution Systems (GDSs). Why or why not? Should the Department require carriers to distribute the ancillary service fee information to all ticket agents, including GDSs, to which the carrier provides fare, schedule, and availability information? How would Online Travel Agencies (OTAs) and metasearch sites receive ancillary service fee information from multiple airlines and disclose that information to consumers if airlines do not provide that information to GDSs?

5. Compliance Period for Implementation

The Proposal:

The Department is tentatively of the view that a six-month implementation period from the issuance date of a final rule would be appropriate for carriers

and ticket agents to display a first and second checked bag fee, a carry-on bag fee, change and cancellation fee, and family seating fees to consumers whenever fare and schedule information is provided online. It also provides sufficient time to train agents to provide fee information for critical ancillary services to consumers when providing fare and schedule information in person or over the phone. It also takes into account the time needed for carriers to share ancillary service fee information with ticket agents.

Question (5): The Department seeks comment on whether proposed implementation period of six months is too lengthy or too short. If the proposed implementation period is either too lengthy or too short, how long of an implementation period would be appropriate and why? Should the Department impose a date certain by which carriers must share ancillary service fee information with ticket agents?

Process for Participation

At the December meeting, individual members of the public will have an opportunity to make remarks. However, depending on the volume of requests for oral comments that we receive and the time available, we may not be able to hear from everyone who submitted a request. Any oral comments presented must be limited to the objectives of the committee and will be limited to three (3) minutes per person. Individual members of the public who wish to present oral comments must notify the Department of Transportation, no later than Thursday, December 1, 2022, via email at *ACPAC@dot.gov* that they wish to present oral comments. The email should (1) identify (by the question number as listed in this Notice) the specific question(s) on which you wish to provide comments; (2) state the organization or entity you are representing or that you are speaking as a member of the public; and (3) provide a written summary of the oral comments you wish to present at the meeting on the question(s). Due to the limited time during the meeting, the Department will review all speaking request submissions and notify those who are selected to speak in advance of the meeting. If there is an interest in addressing a question not identified in this Notice but related to ancillary fee transparency NPRM, please identify that topic in your request.

Members of the public who do not wish to speak at the meeting but have comments on the Ancillary Fee Transparency NPRM that are specifically directed to the ACPAC members for consideration may submit their written comments electronically to the ACPAC Docket (DOT–OST–2018–0190). In addition, any substantive comments on the NPRM to be considered by the Department in the rulemaking should be submitted directly to the NPRM Docket (DOT–OST–2022–0109) by December 19, 2022. The Department is committed to providing equal access to this meeting for all participants. Communication Access Real-time Translation (CART) and sign language interpretation will be provided during the meeting. If you need additional accommodations due to a disability, please contact *ACPAC@dot.gov* no later than December 1, 2022.

B. December 9, 2022, Meeting

The December 9, 2022, meeting will begin at 10:00 a.m. EST, and the Committee members will deliberate and decide on recommendations, if any, to make to the Department on (1) information provided to consumers adversely affected by airline delays or cancellations; (2) availability of airline flight information; and (3) the Department's NPRM on Airline Ticket Refunds and Consumer Protections. Members of the public may submit written comments on any of the three topics at any time to the ACPAC Docket (DOT–OST–2018–0190).

IV. Viewing Documents

Documents associated with the ACPAC maybe be accessed in the ACPAC Docket (DOT–OST–2018–0190). Documents associated with the NPRM on Enhancing Transparency of Airline Ancillary Service Fees may be accessed in the rulemaking Docket (DOT–OST–2022–0109). Documents associated with the NPRM on Airline Ticket Refunds and Consumer Protections may be accessed in the rulemaking Docket (DOT–OST–2022–0089). Dockets may be accessed at *https://www.regulations.gov.* After entering the relevant docket number click the link to ''Open Docket Folder'' and choose the document to review.

Signed in Washington, DC, on or about this 4th day of November 2022.

John E. Putnam,

General Counsel.

[FR Doc. 2022–24486 Filed 11–9–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Form 1099–OID

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 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 Form 1099–OID, *Original Issue Discount.*

DATES: Written comments should be received on or before January 9, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–0117—Public Comment Request Notice'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Original Issue Discount.

OMB Number: 1545–0117.

Regulation Project Number: Form 1099–OID.

Abstract: Form 1099–OID is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code. It is used to verify that income earned on discount obligations is properly reported by the recipient.

Current Actions: There are changes to the burden indicators used to compute burden and an estimated decrease in the number of responses previously approved by OMB.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit groups.

Estimated Number of Responses: 4,411,100.

Estimated Time per Respondent: 23 minutes.

Estimated Total Annual Burden Hours: 1,720,329.

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.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: November 7, 2022.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2022–24568 Filed 11–9–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Concerning Information Reporting for Form 8811

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 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 i information returns for real estate mortgage investment conduits (REMICs) and issuers of collateralized debt obligations.

DATES: Written comments should be received on or before January 9, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–1099—Public Comment Request Notice'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

OMB Number: 1545–1099.

Form Project Number: Form 8811.

Abstract: Current regulations require real estate mortgage investment conduits (REMICs) to provide Forms 1099 to true holders of interests in these investment vehicles. Because of the complex computations required at each level and the potential number of nominees, the ultimate investor may not receive a Form 1099 and other information necessary to prepare their tax return in a timely fashion. Form 8811 collects information for publishing by the IRS so that brokers can contact REMICs to request the financial information and timely issue Forms 1099 to holders.

Current Actions: There is no change in the form previously approved however, an increase in the estimated annual responses will increase the overall estimated burden by 8,760 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 3,000.

Estimated Time per Respondent: 4 Hours 23 minutes.

Estimated Total Annual Burden Hours: 13,140.

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.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: November 7, 2022.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2022–24567 Filed 11–9–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury's Federal Advisory Committee on Insurance (FACI) will meet via videoconference on Thursday, December 8, 2022, from 1 p.m.–4 p.m. Eastern Time. The meeting is open to the public. The FACI provides non-binding recommendation and advice to the Federal Insurance Office (FIO) in the U.S. Department of Treasury.

DATES: The meeting will be held via videoconference on Thursday, December 8, 2022, from 1 p.m.–4 p.m. Eastern Time.

ADDRESSES: *Attendance:* The meeting will be held via videoconference and is open to the public. The public can attend remotely via live webcast: *www.yorkcast.com/treasury/events/2022/12/08/faci.* The webcast will also be available through the FACI's website: *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/federal-advisory-committee-on-insurance-faci.* Please refer to the FACI website for up-to-date information on this meeting. Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Snider Page, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0341, or *snider.page@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: John Gudgel, Senior Insurance Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622–1748 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the FACI are invited to submit written statements by either of the following methods:

Electronic Statements

- Send electronic comments to *faci@treasury.gov.*

Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will make submitted comments available upon request without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. Requests for public comments can be submitted via email to *faci@treasury.gov.* The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This will be the fourth FACI meeting of 2022. In this meeting, the FACI will continue to discuss topics related to climate-related financial risk and the insurance sector and the availability and affordability of auto insurance. The FACI will also receive an update on developments at the International Association of Insurance Supervisors and from FIO on its activities, and consider any new business.

Dated: November 4, 2022.

Steven Seitz,

Director, Federal Insurance Office.

[FR Doc. 2022–24503 Filed 11–9–22; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for applicable date.

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On November 7, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. AKBAR, Nufael (a.k.a. AKBAR, Nufail), South Africa; DOB 26 Mar 1972; nationality South Africa; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 7203265244080 (South Africa) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having

materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. AKBAR, Mohamad (a.k.a. AKBAR, Mohamed), 38 Cunningham Rd, Umbilo, Durban, KwaZulu-Natal 4001, South Africa; DOB 15 Jul 1997; nationality South Africa; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A04742654 (South Africa); National ID No. 9707155375083 (South Africa) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. AKBAR, Yunus Mohamad (a.k.a. AKBAR, Yunus Muhammad), South Africa; DOB 27 Nov 1978; nationality South Africa; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 7811275043084 (South Africa) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. AKBAR, Umar (a.k.a. AKBAR, Hamza), 118 Mallinson Rd, Asherville, Durban, KwaZulu-Natal 4001, South Africa; Flat 5, 6 St, Sydenham, Durban, KwaZulu-Natal, South Africa; DOB 06 Sep 1998; nationality South Africa; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A06246615 (South Africa); National ID No. 9809065830080 (South Africa) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities

1. ASHIQ JEWELLERS CC, 115 Russel St, Durban, KwaZulu-Natal 4001, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 03 Aug 2009; Tax ID No. 9176936178 (South Africa); Trade License No. 2009/151008/23 (South Africa); Enterprise Number B2009151008 (South Africa) [SDGT] (Linked To: HOOMER, Farhad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, FARHAD HOOMER, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. INEOS TRADING PTY LTD, 118 Mallinson Rd, Asherville, Durban, KwaZulu-Natal 4001, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 20 Jun 2016; Tax ID No. 9954121167 (South Africa); Trade License No. 2016/212771/07 (South Africa); Enterprise Number K2016212771 (South Africa) [SDGT] (Linked To: HOOMER, Farhad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, FARHAD HOOMER, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. SHAAHISTA SHOES CC, 115 Russel St, Durban, KwaZulu-Natal 4001, South Africa; 161 Stamford Hill Rd, Durban, KwaZulu-Natal 4001, South Africa; P.O. Box 19596, Dormerton, Durban, KwaZulu-Natal 4015, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 10 Mar 2004; Tax ID No. 9209696153 (South Africa); Trade License No. 2004/023017/23 (South Africa); Enterprise Number B2004023017 (South Africa) [SDGT] (Linked To: HOOMER, Farhad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, FARHAD HOOMER, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. SULTAN'S CONSTRUCTION CC, 115 Russel St, Durban, KwaZulu-Natal 4001, South Africa; 118 Mallinson Rd, Asherville, Durban, KwaZulu-Natal 4000, South Africa; P.O. Box 48155, Qualbert, Durban, KwaZulu-Natal 4078, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 30 Nov 2007; Tax ID No. 9124813164 (South Africa); Trade License No. 2007/241953/23 (South Africa); Enterprise Number B2007241953 (South Africa) [SDGT] (Linked To: HOOMER, Farhad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, FARHAD HOOMER, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. HJ BANNISTER CONSTRUCTION CC, 38 Cunningham Rd, Umbilo, Durban, KwaZulu-Natal 4001, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 20 Jul 1989; Tax ID No. 9126178202 (South Africa); Trade License No. 1989/023376/23 (South Africa); Enterprise Number B1989023376 (South Africa) [SDGT] (Linked To: AKBAR, Nufael; Linked To: AKBAR, Yunus Mohamad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, NUFAEL AKBAR and YUNUS MOHAMAD AKBAR, persons whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

6. MA GOLD TRADERS PTY LTD, 38 Cunningham Rd, Umbilo, Durban, KwaZulu-Natal 4000, South Africa; P.O. Box 27, Westwood, KwaZulu-Natal 3633, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 22 Jan 2019; Tax ID No. 9263261233 (South Africa); Trade License No. 2019/032950/07 (South Africa); Enterprise Number K2019032950 (South Africa) [SDGT] (Linked To: AKBAR, Nufael).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, NUFAEL AKBAR, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

7. BAILEY HOLDINGS PTY LTD, 38 Cunningham Rd, Durban, KwaZulu-Natal 4001, South Africa; P.O. Box 14544, Pretoria, Johannesburg, Gauteng 0037, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 20 Mar 2018; Tax ID No. 9141736232 (South Africa); Trade License No. 2018/215018/07 (South Africa) [SDGT] (Linked To: AKBAR, Yunus Mohamad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, YUNUS MOHAMAD AKBAR, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

8. FLEXOSEAL WATERPROOFING SOLUTIONS PTY LTD, 11 Walter Place, Durban, KwaZulu-Natal 4000, South Africa; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 16 Mar 2021; Tax ID No. 9118725259 (South Africa); Trade License No. 2021/480544/07 (South Africa) [SDGT] (Linked To: AKBAR, Yunus Mohamad).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, YUNUS MOHAMAD AKBAR, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: November 7, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–24572 Filed 11–9–22; 8:45 am]

BILLING CODE 4810–AL–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings

TIME AND DATE: November 15, 2022, 1:30 p.m. to 4:30 p.m., Eastern time.

PLACE: This meeting will take place at the Westin New Orleans, New Orleans, LA 100 Iberville Street, New Orleans, LA 70130 and will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 931 0252 0100, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJcsd-utrDsrGtRdbvln2Lv0kCM8hJ2jZujD*.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The agenda will be reviewed, and the Subcommittee will consider adoption of the agenda.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes from the September 13, 2022 Meeting—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the September 13, 2022, Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Investment Policy/Development of Active Cash Management System—UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair and UCR Depository Manager will lead a discussion on developing a policy that will result in an enhanced cash management and investment strategy designed to increase the interest income that is earned on both administrative reserve funds and excess fees held in the UCR Depository. The Subcommittee may take action to recommend to the Board the adoption of an Investment Policy/Active Cash Management System.

VI. Maturing Certificate of Deposit on November 12, 2022, and Status of Treasury Bill/Note—UCR Depository Manager

VII. Review of 2023 Administrative Budget—UCR Depository Manager

For Discussion and Possible Subcommittee Action

The UCR Depository Manager will lead a discussion regarding the 2023 UCR administrative budget. The Subcommittee may take action to recommend to the Board adoption of the 2023 budget.

VIII. Review of 2022 Administrative Expenses—UCR Depository Manager

The UCR Depository Manager will review the expenditures of the UCR Plan for the first ten months ended September 30, 2022 with the Subcommittee. A forecast for the final three months in the year will also be presented.

IX. Other Business—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

X. Adjourn—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, November 7, 2022 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2022–24734 Filed 11–8–22; 4:15 pm]

BILLING CODE 4910–YL–P

FEDERAL REGISTER

Vol. 87 Thursday,

No. 217 November 10, 2022

Part II

The President

Notice of November 8, 2022—Continuation of the National Emergency With Respect to Iran

Notice of November 8, 2022—Continuation of the National Emergency With Respect to the Proliferation of Weapons of Mass Destruction

Notice of November 8, 2022—Continuation of the National Emergency With Respect to the Threat From Securities Investments That Finance Certain Companies of the People's Republic of China

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Presidential Documents

Title 3—

The President

Notice of November 8, 2022

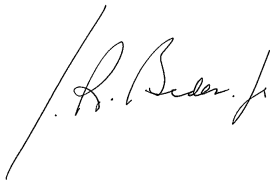
Continuation of the National Emergency With Respect to Iran

On November 14, 1979, by Executive Order 12170, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and took related steps to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran.

Our relations with Iran have not yet normalized, and the process of implementing the agreements with Iran, dated January 19, 1981, is ongoing. For this reason, the national emergency declared on November 14, 1979, and the measures adopted on that date to deal with that emergency, must continue in effect beyond November 14, 2022. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran declared in Executive Order 12170.

The emergency declared by Executive Order 12170 is distinct from the emergency declared in Executive Order 12957 on March 15, 1995. This renewal, therefore, is distinct from the emergency renewal of March 3, 2022.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
November 8, 2022.

[FR Doc. 2022–24779
Filed 11–9–22; 11:15 am]
Billing code 3395–F3–P

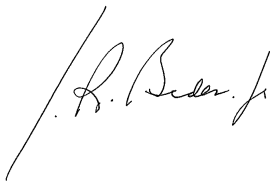
Presidential Documents

Notice of November 8, 2022

Continuation of the National Emergency With Respect to the Proliferation of Weapons of Mass Destruction

On November 14, 1994, by Executive Order 12938, the President declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and the means of delivering such weapons. On July 28, 1998, by Executive Order 13094, the President amended Executive Order 12938 to respond more effectively to the worldwide threat of weapons of mass destruction proliferation activities. On June 28, 2005, by Executive Order 13382, the President, among other things, further amended Executive Order 12938 to improve our ability to combat proliferation. The proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 12938 of November 14, 1994, with respect to the proliferation of weapons of mass destruction and the means of delivering such weapons must continue beyond November 14, 2022. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 12938, as amended.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,

November 8, 2022.

[FR Doc. 2022–24784

Filed 11–9–22; 11:15 am]

Billing code 3395–F3–P

Presidential Documents

Notice of November 8, 2022

Continuation of the National Emergency With Respect to the Threat From Securities Investments That Finance Certain Companies of the People's Republic of China

On November 12, 2020, by Executive Order 13959, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the threat from securities investments that finance certain companies of the People's Republic of China (PRC).

The President found that the PRC is increasingly exploiting United States capital to resource and enable the development and modernization of its military, intelligence, and other security apparatuses, which continues to allow the PRC to directly threaten the United States homeland and United States forces overseas. Through the national strategy of Military-Civil Fusion, the PRC increases the size of the country's military-industrial complex by compelling civilian Chinese companies to support its military and intelligence activities. Those companies, though remaining ostensibly private and civilian, directly support the PRC's military, intelligence, and security apparatuses and aid in their development and modernization. At the same time, those companies raise capital by selling securities to United States investors that trade on public exchanges both here and abroad lobbying United States index providers and funds to include these securities in market offerings, and engaging in other acts to ensure access to United States capital.

The President further found that the PRC's military industrial complex, by directly supporting the efforts of the PRC's military, intelligence, and other security apparatuses, constituted an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

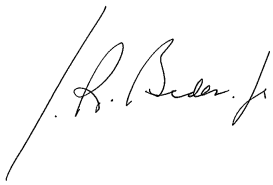
On January 13, 2021, the President signed Executive Order 13974 amending Executive Order 13959.

On June 3, 2021, I signed Executive Order 14032, which expanded the scope of the national emergency declared in Executive Order 13959. I found that additional steps are necessary to address that national emergency, including the threat posed by the military-industrial complex of the PRC and its involvement in military, intelligence, and security research and development programs, and weapons and related equipment production under the PRC's Military-Civil Fusion strategy. In addition, I found that the use of Chinese surveillance technology outside the PRC and the development or use of Chinese surveillance technology to facilitate repression or serious human rights abuse constituted unusual and extraordinary threats to the national security, foreign policy, and economy of the United States, and I expanded the national emergency to address these threats. Executive Order 14032 amended Executive Order 13959 and revoked Executive Order 13974 in its entirety.

The threat from securities investments that finance certain companies of the PRC and certain uses and development of Chinese surveillance technology continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

For this reason, the national emergency declared in Executive Order 13959 of November 12, 2020, expanded in scope by Executive Order 14032 of June 3, 2021, must continue in effect beyond November 12, 2022. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13959 with respect to the threat from securities investments that finance certain companies of the PRC and expanded in Executive Order 14032.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
November 8, 2022.

[FR Doc. 2022–24787
Filed 11–9–22; 11:15 am]
Billing code 3395–F3–P

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