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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.

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206–AO40

General Schedule Locality Pay Areas

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: On behalf of the President's Pay Agent, the Office of Personnel Management is issuing final regulations to establish Carroll County, IL, as an area of application to the Davenport-Moline, IA–IL locality pay area and Brooks County, TX, as an area of application to the Corpus Christi-Kingsville-Alice, TX, locality pay area. Those changes in the geographic definitions of those locality pay areas are applicable on the first day of the first pay period beginning on or after January 4, 2023.

DATES: The regulations are effective on the first day of the first pay period beginning on or after January 4, 2023. The regulations are applicable January 15, 2023.

FOR FURTHER INFORMATION CONTACT: Joe Ratcliffe by email at *pay-leave-policy@opm.gov* or 202–936–3124.

SUPPLEMENTARY INFORMATION: Section 5304 of title 5, United States Code (U.S.C.), authorizes locality pay for General Schedule (GS) employees with duty stations in the United States and its territories and possessions. Section 5304(f) of title 5, United States Code, authorizes the President's Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to determine locality pay areas. The boundaries of locality pay areas are based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. The Pay Agent considers the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay policy and representatives of Federal employee organizations. The President appoints the members of the Council, which submits annual recommendations to the Pay Agent about the administration of the locality pay program, including the geographic boundaries of locality pay areas. (The Federal Salary Council's recommendations are posted on the OPM website at *https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/#url=Federal-Salary-Council*.) The establishment or modification of pay area boundaries conforms to the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

On September 21, 2022, OPM published a proposed rule in the **Federal Register** on behalf of the Pay Agent. (See 87 FR 57650.) The proposed rule proposed establishing Carroll County, IL, as an area of application to the Davenport-Moline, IA–IL locality pay area and Brooks County, TX, as an area of application to the Corpus Christi-Kingsville-Alice, TX, locality pay area.

The proposed rule provided a 30-day comment period. Accordingly, the Pay Agent reviewed comments received through October 21, 2022. After considering those comments, the Pay Agent has decided to implement the locality pay area definitions in the proposed rule.

Impact and Implementation

Including Carroll County, IL, as an area of application to the Davenport-Moline, IA–IL locality pay area will impact about 420 GS employees, and including Brooks County, TX, as an area of application to the Corpus Christi-Kingsville-Alice, TX, locality pay area will impact about 420 GS employees.

Comments on the Proposed Rule

OPM received two separate comments suggesting that, based on living costs, locations be redesignated to comprise or be included in locality pay areas separate from the Rest of U.S. locality pay area. One of those comments concerned Puerto Rico, and the other comment concerned Tampa, FL. Those locations will remain in the Rest of U.S. locality pay area because they do not meet approved criteria to be established as a new locality pay area or to be included in a locality pay area separate from the Rest of U.S. Also, stakeholders should note that living costs are not directly considered in the locality pay program. Under 5 U.S.C. 5304, locality pay rates are based on comparisons of GS pay and non-Federal pay at the same work levels in a locality pay area. While relative living costs may indirectly affect non-Federal pay levels, living costs are just one of many factors that affect the supply of and demand for labor, and therefore labor costs, in a locality pay area.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is not a ''significant regulatory action,'' under Executive Order 12866.

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities as this rule only applies to Federal agencies and employees.

Federalism

OPM has examined this rule in accordance with Executive Order 13132, Federalism, and has determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

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

Unfunded Mandates Act of 1995

This 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

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

Accordingly, OPM is amending 5 CFR part 531 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

■ 1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Public Law 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304, 5305, and 5941(a); E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682; and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart F—Locality-Based Comparability Payments

■ 2. In § 531.603, paragraph (b) is revised to read as follows:

§ 531.603 Locality pay areas.

* * * * *

(b) The following are locality pay areas for the purposes of this subpart:

(1) Alaska—consisting of the State of Alaska;

(2) Albany-Schenectady, NY–MA—consisting of the Albany-Schenectady, NY CSA and also including Berkshire County, MA;

(3) Albuquerque-Santa Fe-Las Vegas, NM—consisting of the Albuquerque-Santa Fe-Las Vegas, NM CSA and also including McKinley County, NM;

(4) Atlanta—Athens-Clarke County—Sandy Springs, GA–AL—consisting of the Atlanta—Athens-Clarke County—Sandy Springs, GA CSA and also including Chambers County, AL;

(5) Austin-Round Rock, TX—consisting of the Austin-Round Rock, TX MSA;

(6) Birmingham-Hoover-Talladega, AL—consisting of the Birmingham-Hoover-Talladega, AL CSA and also including Calhoun County, AL;

(7) Boston-Worcester-Providence, MA–RI–NH–ME—consisting of the Boston-Worcester-Providence, MA–RI–NH–CT CSA, except for Windham County, CT, and also including Androscoggin County, ME, Cumberland County, ME, Sagadahoc County, ME, and York County, ME;

(8) Buffalo-Cheektowaga, NY—consisting of the Buffalo-Cheektowaga, NY CSA;

(9) Burlington-South Burlington, VT—consisting of the Burlington-South Burlington, VT MSA;

(10) Charlotte-Concord, NC-SC—consisting of the Charlotte-Concord, NC-SC CSA;

(11) Chicago-Naperville, IL-IN-WI—consisting of the Chicago-Naperville, IL-IN-WI CSA;

(12) Cincinnati-Wilmington-Maysville, OH-KY-IN—consisting of the Cincinnati-Wilmington-Maysville, OH-KY-IN CSA and also including Franklin County, IN;

(13) Cleveland-Akron-Canton, OH—consisting of the Cleveland-Akron-Canton, OH CSA and also including Harrison County, OH;

(14) Colorado Springs, CO—consisting of the Colorado Springs, CO MSA and also including Fremont County, CO, and Pueblo County, CO;

(15) Columbus-Marion-Zanesville, OH—consisting of the Columbus-Marion-Zanesville, OH CSA;

(16) Corpus Christi-Kingsville-Alice, TX—consisting of the Corpus Christi-Kingsville-Alice, TX CSA and also including Brooks County, TX;

(17) Dallas-Fort Worth, TX-OK—consisting of the Dallas-Fort Worth, TX-OK CSA and also including Delta County, TX;

(18) Davenport-Moline, IA-IL—consisting of the Davenport-Moline, IA-IL CSA and also including Carroll County, IL;

(19) Dayton-Springfield-Sidney, OH—consisting of the Dayton-Springfield-Sidney, OH CSA and also including Preble County, OH;

(20) Denver-Aurora, CO—consisting of the Denver-Aurora, CO CSA and also including Larimer County, CO;

(21) Des Moines-Ames-West Des Moines, IA—consisting of the Des Moines-Ames-West Des Moines, IA CSA;

(22) Detroit-Warren-Ann Arbor, MI—consisting of the Detroit-Warren-Ann Arbor, MI CSA;

(23) Harrisburg-Lebanon, PA—consisting of the Harrisburg-York-Lebanon, PA CSA, except for Adams County, PA, and York County, PA, and also including Lancaster County, PA;

(24) Hartford-West Hartford, CT-MA—consisting of the Hartford-West Hartford, CT CSA and also including Windham County, CT, Franklin County, MA, Hampden County, MA, and Hampshire County, MA;

(25) Hawaii—consisting of the State of Hawaii;

(26) Houston-The Woodlands, TX—consisting of the Houston-The Woodlands, TX CSA and also including San Jacinto County, TX;

(27) Huntsville-Decatur-Albertville, AL—consisting of the Huntsville-Decatur-Albertville, AL CSA;

(28) Indianapolis-Carmel-Muncie, IN—consisting of the Indianapolis-Carmel-Muncie, IN CSA and also including Grant County, IN;

(29) Kansas City-Overland Park-Kansas City, MO-KS—consisting of the Kansas City-Overland Park-Kansas City, MO-KS CSA and also including Jackson County, KS, Jefferson County, KS, Osage County, KS, Shawnee County, KS, and Wabaunsee County, KS;

(30) Laredo, TX—consisting of the Laredo, TX MSA;

(31) Las Vegas-Henderson, NV-AZ—consisting of the Las Vegas-Henderson, NV-AZ CSA;

(32) Los Angeles-Long Beach, CA—consisting of the Los Angeles-Long Beach, CA CSA and also including Imperial County, CA, Kern County, CA, San Luis Obispo County, CA, and Santa Barbara County, CA;

(33) Miami-Fort Lauderdale-Port St. Lucie, FL—consisting of the Miami-Fort Lauderdale-Port St. Lucie, FL CSA and also including Monroe County, FL;

(34) Milwaukee-Racine-Waukesha, WI—consisting of the Milwaukee-Racine-Waukesha, WI CSA;

(35) Minneapolis-St. Paul, MN-WI—consisting of the Minneapolis-St. Paul, MN-WI CSA;

(36) New York-Newark, NY-NJ-CT-PA—consisting of the New York-Newark, NY-NJ-CT-PA CSA and also including all of Joint Base McGuire-Dix-Lakehurst;

(37) Omaha-Council Bluffs-Fremont, NE-IA—consisting of the Omaha-Council Bluffs-Fremont, NE-IA CSA;

(38) Palm Bay-Melbourne-Titusville, FL—consisting of the Palm Bay-Melbourne-Titusville, FL MSA;

(39) Philadelphia-Reading-Camden, PA-NJ-DE-MD—consisting of the

Philadelphia-Reading-Camden, PA-NJ-DE-MD CSA, except for Joint Base McGuire-Dix-Lakehurst;

(40) Phoenix-Mesa-Scottsdale, AZ—consisting of the Phoenix-Mesa-Scottsdale, AZ MSA;

(41) Pittsburgh-New Castle-Weirton, PA-OH-WV—consisting of the Pittsburgh-New Castle-Weirton, PA-OH-WV CSA;

(42) Portland-Vancouver-Salem, OR-WA—consisting of the Portland-Vancouver-Salem, OR-WA CSA;

(43) Raleigh-Durham-Chapel Hill, NC—consisting of the Raleigh-Durham-Chapel Hill, NC CSA and also including Cumberland County, NC, Hoke County, NC, Robeson County, NC, Scotland County, NC, and Wayne County, NC;

(44) Richmond, VA—consisting of the Richmond, VA MSA and also including Cumberland County, VA, King and Queen County, VA, and Louisa County, VA;

(45) Sacramento-Roseville, CA-NV—consisting of the Sacramento-Roseville, CA CSA and also including Carson City, NV, and Douglas County, NV;

(46) San Antonio-New Braunfels-Pearsall, TX—consisting of the San Antonio-New Braunfels-Pearsall, TX CSA;

(47) San Diego-Carlsbad, CA—consisting of the San Diego-Carlsbad, CA MSA;

(48) San Jose-San Francisco-Oakland, CA—consisting of the San Jose-San Francisco-Oakland, CA CSA and also including Monterey County, CA;

(49) Seattle-Tacoma, WA—consisting of the Seattle-Tacoma, WA CSA and also including Whatcom County, WA;

(50) St. Louis-St. Charles-Farmington, MO-IL—consisting of the St. Louis-St. Charles-Farmington, MO-IL CSA;

(51) Tucson-Nogales, AZ—consisting of the Tucson-Nogales, AZ CSA and also including Cochise County, AZ;

(52) Virginia Beach-Norfolk, VA-NC—consisting of the Virginia Beach-Norfolk, VA-NC CSA;

(53) Washington-Baltimore-Arlington, DC-MD-VA-WV-PA—consisting of the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA CSA and also including Kent County, MD, Adams County, PA, York County, PA, King George County, VA, and Morgan County, WV; and

(54) Rest of U.S.—consisting of those portions of the United States and its territories and possessions as listed in 5 CFR 591.205 not located within another locality pay area.

[FR Doc. 2022–26427 Filed 12–2–22; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0463; Project Identifier MCAI–2021–00895–T; Amendment 39–22245; AD 2022–24–05]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A318, A319, A320, and A321 series airplanes. This AD was prompted by a report that damage (including delamination of the work deck, and corroded and cracked retainer blocks) was found during inspection of certain galleys. This AD requires repetitive inspections of certain galleys for corrosion of trolley retainer aluminum blocks and delamination of the upper panel of the trolley compartment, and applicable corrective action, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also limits the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 9, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 9, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0463; 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 (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this IBR material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2022–0463.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@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 Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. The NPRM published in the **Federal Register** on April 18, 2022 (87 FR 22818). The NPRM was prompted by AD 2021–0183R1, dated September 20, 2021, issued by the European Union Aviation Safety Agency (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 damage (including delamination of the work deck, and corroded and cracked retainer blocks) was found during inspection of certain galleys. The FAA is proposing this AD to detect and correct damage that could affect the galley's capability to hold the trolley under emergency landing loads, which could lead to trolley detachment, possibly resulting in blocking of an escape path during an emergency exit.

In the NPRM, the FAA proposed to require repetitive inspections of certain galleys for corrosion of trolley retainer aluminum blocks and delamination of the upper panel of the trolley compartment, and applicable corrective action, as specified in EASA AD 2021–0183R1. The NPRM also proposed to limit the installation of affected parts under certain conditions. 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–2022–0463.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters, including American Airlines (AAL) and Delta Air Lines (DAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Improved Repair Instructions

AAL requested that the FAA coordinate with Safran, Airbus, and/or EASA to discuss a repair solution more appropriate than the repair specified in the service information referenced in the MCAI, perhaps one that would replace a section of the entire work deck that encompasses all of the trolley blocks with a pre-fabricated composite and less-corrosive work deck section. AAL considered the intervals, and in particular, the repair methods to be ill-conceived. AAL explained that the repair is impractical and overly invasive and does not take into consideration details of the bonded structure such as potted inserts, cutouts for pivoting T-dividers, and adjacent structural elements such as the stabbing assembly which is often destroyed or damaged during a disbond process. AAL also explained that, among other things, applying heat to bonded parts to facilitate their removal is overly optimistic (as a solution to address the unsafe condition) and causes damage that can lead to other unsafe conditions. AAL expressed concerns that the scope of damage could lead to additional approvals that would be overwhelming to the FAA, AAL, Safran, and Airbus. Therefore, AAL asked the FAA to consider a more comprehensive repair approach in lieu of incorporating by reference EASA AD 2021–0183R1. AAL proposed a repair that would involve trimming and replacing a section of the entire work deck that encompasses all of the trolley blocks. The FAA does not agree. The FAA has not received revised service information that would address AAL's concerns and waiting for revised service information would delay the actions required to address the specified unsafe condition. In addition, EASA's response to a similar comment in the associated EASA proposed AD (PAD) explains that it is in the interest of safety to start the inspection campaign with the available instructions, rather than delaying that, pending the development and approval of a new repair. As stated in the NPRM, this AD action has been identified as interim action pending the potential development of a final action. However, under the provisions of paragraph (j)(1) of this AD, the FAA will consider requests for approval of an alternative method of compliance (AMOC) if sufficient data are submitted to substantiate that the method would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request for Revised Cost Estimate

AAL requested the proposed AD be revised to include repair cost estimations in the on-condition cost estimate. AAL stated that its prior operational experience shows that an operator should expect an average workscope greater than an inspection, likely including retainer block replacement.

The FAA agrees to revise the cost estimate for on-condition actions. The estimate has been revised to include a worst-case scenario of 40 work-hours per airplane for the intermediate repair of replacing all retaining blocks.

Request for Delay of AD Issuance

DAL requested delaying AD issuance until new or revised service information is published. DAL stated that the next revisions of the service information referenced in EASA AD 2021–0183R1 would contain the following corrections and add-ons: a final fix for Galley G2A, G4x, and G5; revision of the ''Quick Fix'' adhesive reference from DP100FR to DP100; and the addition of a missing figure in the instructions for installing doublers when doing the panel skin restoration.

The FAA disagrees. Although a later revision was issued, the later revision did not include updated instructions for the galleys. The FAA does not consider that delaying this action for the final fix is warranted since sufficient service information currently exists to address the unsafe condition until the final fix is identified and published. As stated previously, the FAA might consider further rulemaking once a final action is developed, approved, and available. However, under the provisions of paragraph (j)(1) of this AD, the FAA will consider requests for an AMOC if such final action is submitted. The FAA has not changed this AD in this regard.

Requests To Extend Compliance Time

DAL requested extending the initial inspection grace period from 12 months after the effective date of the AD to 24 months. DAL stated that during conversations with Airbus, DAL was not provided with a definite answer on whether sufficient parts or materials would be available to support repairs within a 12-month timeline. AAL also expressed concerns about obtaining replacement parts from Safran in a timely manner.

The FAA disagrees to extend this compliance time. The FAA considered the recommendations of EASA and the manufacturer, the availability of parts and the safety implications, and determined that the 12-month grace period, as proposed, will provide an adequate level of safety. However, under the provisions of paragraph (j)(1) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the extension would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request To Address Damage Found During Post-Repair Inspection

DAL requested that the proposed AD be revised to specify the follow-on corrective action necessary to address damage found during inspections done after an ''Intermediate Fix'' was accomplished. DAL noted that after an ''Intermediate Fix'' has been accomplished, the service information states that the next inspection may be postponed up to 36 months after the repair action, but if that inspection has findings of damage, no repair instructions are specified.

The FAA agrees that no repair instructions are specified for findings of damage. Since no repair instructions are specified, the FAA has added paragraph (h)(4) of this AD to specify contacting EASA, the FAA, or Airbus's SAS EASA Design Organization Approval (DOA) for approval of repair instructions.

Request To Address Existing Repairs on Inspection Area

DAL requested that the FAA add an exception in paragraph (h) of the proposed AD that addresses a related plan of action, explains whether an AMOC is required for existing repairs in the inspection area, or states that existing repairs that are permanent terminate the repetitive inspection.

The FAA agrees to clarify. AMOCs provide an alternative method of compliance to the methods required to be used in the associated AD. An AMOC is issued only after an AD has been issued and only after data are provided to show that the proposed solution is complete and addresses the unsafe condition. However, once this AD is published, any person may request approval of an AMOC under the

provisions of paragraph (j)(1) of this AD. Operators with an existing repair in the inspection area may submit information on the repair for consideration as a possible terminating action. The FAA has not changed this AD in this regard.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0183R1 specifies procedures for repetitive general visual inspections of certain galleys for discrepancies including corrosion of trolley retainer aluminum blocks and delamination of upper panel of trolley compartment, and corrective action. Corrective actions include repeating the inspection at an earlier interval, repairing the trolley compartment upper panel, and limiting trolley weight. 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.

Interim Action

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

Costs of Compliance

The FAA estimates that this AD affects 1,425 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 per galley, per inspection cycle	$0	$170 per inspection cycle	$242,250 per inspection cycle.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
40 work-hours × $85 per hour = $3,400	Minimal	$3,400

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:

2022–24–05 Airbus SAS: Amendment 39–22245; Docket No. FAA–2022–0463; Project Identifier MCAI–2021–00895–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 9, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by a report that damage (including delamination of work deck, and corroded and cracked retainer blocks) was found during inspection of certain galleys. The FAA is issuing this AD to detect and correct damage that could affect the galley's capability to hold the trolley under emergency landing loads, which could lead to trolley detachment, possibly resulting in blocking of an escape path during an emergency exit.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0183R1, dated September 20, 2021 (EASA AD 2021–0183R1).

(h) Exceptions to EASA AD 2021–0183R1

(1) Where EASA AD 2021–0183R1 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2021–0183R1 refers to ''18 August 2021,'' this AD requires using the effective date of this AD.

(3) The ''Remarks'' section of EASA AD 2021–0183R1 does not apply to this AD.

(4) Where EASA AD 2021–0183R1 does not specify corrective action after a post-repair inspection that has findings of damage, this AD requires obtaining repair instructions before further flight from the FAA, EASA, or Airbus SAS's EASA Design Organization Approval (DOA) and accomplishing those actions accordingly. If approved by the DOA, the approval must include the DOA-authorized signature.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0183R1 specifies to submit certain information to the manufacturer, 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, 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 manager, International Validation Branch, mail it to the address identified in paragraph (k) 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 responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(k) Additional Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@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 2021–0183R1, dated September 20, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0183R1, 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 November 9, 2022.

Christina Underwood,

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

[FR Doc. 2022–26357 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1155; Project Identifier MCAI–2022–00655–T; Amendment 39–22243; AD 2022–24–03]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A321–251N, A321–251NX, A321–252N, A321–252NX, A321–253N, and A321–253NX airplanes. This AD was prompted by a stress analysis on the engine structure that indicated that the fail-safe lug may not be able to sustain, during one inspection interval as currently specified in an airworthiness limitations item, the loads deriving from the engagement of the secondary load path within that inspection interval for the aft engine mount system. This AD requires repetitive detailed inspections of the aft engine mount and secondary load path clearance fail-safe pin and replacement of the engine if necessary, 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 January 9, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 9, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1155; 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 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–2022–1155.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A321–251N, A321–251NX, A321–252N, A321–252NX, A321–253N, and A321–253NX airplanes. The NPRM published in the **Federal Register** on September 12, 2022 (87 FR 55737). The NPRM was prompted by AD 2022–0089, dated May 17, 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 the engine fail safe lug may not be able to sustain, during one inspection interval as currently specified in airworthiness limitation item (ALI) task 712232–01–1, the loads deriving from the engagement of the secondary load path. This condition, if not detected and corrected, could lead to engine mount rupture, possibly resulting in engine loss during flight and loss of control of the airplane.

In the NPRM, the FAA proposed to require repetitive detailed inspections of the aft engine mount and secondary load path clearance fail-safe pin and replacement of the engine if necessary, as specified in EASA AD 2022–0089. 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–2022–1155.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA) and an anonymous commenter. Both commenters supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0089 specifies procedures for repetitive detailed inspections (DET) for discrepancies of the aft engine mount and secondary load path clearance fail-safe pin for each engine, and replacement of any engine with discrepant findings on the secondary load path clearance check.

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 156 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
Up to 4 work-hours × $85 per hour = $340	$0	Up to $340	Up to $53,040.

The FAA estimates that it would take 64 work-hours (at $85 per work-hour) to replace an engine, if required based on the results of any required actions. The FAA has received no definitive data on which to base the estimate for the cost of a replacement engine or any necessary additional on-condition actions that would be required by this AD. The FAA has no way of determining the number of aircraft that might need these on-condition actions.

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:

2022–24–03 Airbus SAS: Amendment 39–22243; Docket No. FAA–2022–1155; Project Identifier MCAI–2022–00655–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 9, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A321–251N, A321–251NX, A321–252N, A321–252NX, A321–253N, and A321–253NX airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by a stress analysis on the engine structure that indicated that the fail-safe lug may not be able to sustain, during one inspection interval, as currently specified in airworthiness limitation item (ALI) task 712232–01–1, the loads deriving from the engagement of the secondary load path within that inspection interval for the aft engine mount system. The FAA is issuing this AD to address potential failure of the LEAP–1A aft engine mount waiting fail-safe male lug, which could lead to engine mount rupture, possibly resulting in engine loss during flight and loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0089, dated May 17, 2022 (EASA AD 2022–0089).

(h) Exceptions to EASA AD 2022–0089

(1) Where paragraph (3) of EASA AD 2022–0089 specifies corrective action if ''discrepancies are detected, as defined in the SB,'' for purposes of this AD, discrepancies include a fail-safe pin that does not rotate freely, or has damage (dents, scratches, nicks, corrosion, or cracks).

(2) The ''Remarks'' section of EASA AD 2022–0089 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0089, dated May 17, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0089, 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 November 9, 2022.

Christina Underwood,

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

[FR Doc. 2022–26356 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0890; Project Identifier MCAI–2022–00391–T; Amendment 39–22242; AD 2022–24–02]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A300 F4–600R series airplanes. This AD was prompted by a determination that the forward cargo door compartment between certain frame forks is susceptible to widespread fatigue damage (WFD). This AD completes certain mandated programs to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This AD requires modifying the forward cargo compartment between certain frame forks, 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 January 9, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 9, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0890; 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 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–2022–0890.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A300 F4–600R series airplanes. The NPRM published in the **Federal Register** on July 25, 2022 (87 FR 44032). The NPRM was prompted by EASA AD 2022–0048, dated March 18, 2022 (EASA AD 2022–0048) issued by EASA, which is the Technical Agent for the Member States of the European (referred to after this as the MCAI). The MCAI states that the forward cargo compartment between frames 21 through 25 forks is susceptible to WFD, and a structural modification is required to allow airplanes to continue operation up to the LOV.

In the NPRM, the FAA proposed to complete certain mandated programs to support the airplane reaching its LOV of the engineering data that support the established structural maintenance program, as specified in EASA AD 2022–0048. The NPRM also proposed to require modifying the forward cargo compartment between frames 21 through 25 forks, as specified in EASA AD 2022–0048. The FAA is issuing this AD to address this unsafe condition, which if not corrected, could result in reduced structural integrity of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0890.

Discussion of Final Airworthiness Directive

Comments

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

The FAA received an additional comment from FedEx. The following presents the FAA's response to that comment.

Request To Approve Equivalent Label

FedEx asked the FAA approve installing an equivalent label that contains the same information as the label identified in the service information required by EASA AD 2022–0048. FedEx stated that it is having difficulty procuring that label, having part number (P/N) ABS2127B01. FedEx noted that the label is to be installed on the aircraft to identify that the modification required by EASA AD 2022–0048 has been accomplished, and does not affect the other work performed.

The FAA agrees that installing an equivalent label (placard) which contains the same information as the label having P/N ABS2127B01 is acceptable. Therefore, the FAA has added paragraph (h)(1) of this AD, which allows the use of an equivalent label on the forward cargo compartment door. The FAA has redesignated subsequent paragraphs accordingly.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other change described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0048 specifies procedures for modifying the forward cargo compartment between frames 21 through 25 forks. The modification includes reinforcing the fastener holes through cold working and replacing all the fasteners.

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 67 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
36 work-hours × $85 per hour = $3,060	$177	$3,237	$216,879

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:

2022–24–02 Airbus SAS: Amendment 39–22242; Docket No. FAA–2022–0890; Project Identifier MCAI–2022–00391–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 9, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A300 F4–605R and F4–622R airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2022–0048, dated March 18, 2022 (EASA AD 2022–0048).

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by a determination that the forward cargo door compartment between frames 21 through 25 forks is susceptible to widespread fatigue damage (WFD). The FAA is issuing this AD to address this condition, which if not corrected, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0048.

(h) Exceptions to EASA AD 2022–0048

(1) Where the service information referenced in EASA AD 2022–0048 specifies installing a label (placard) having part number (P/N) ABS2127B01 on the forward cargo compartment door, this AD allows installing an equivalent label provided the label contains the same information as the label having P/N ABS2127B01.

(2) The ''Remarks'' section of EASA AD 2022–0048 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, 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 (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0048, dated March 18, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0048, 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 November 9, 2022.

Christina Underwood,

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

[FR Doc. 2022–26355 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0677; Project Identifier MCAI–2021–01378–T; Amendment 39–22230; AD 2022–23–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–2A12 airplanes. This AD was prompted by the investigation of erroneous radio altimeter data that was displayed on an in-service airplane. It was revealed that certain radio altimeter coaxial cables used by the radio altimeter systems, in the aft fuselage equipment bay, were damaged. This AD requires replacing affected radio altimeter coaxial cables. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 9, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 9, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0677; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *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. It is also available at *regulations.gov* under Docket No. FAA–2022–0677.

FOR FURTHER INFORMATION CONTACT:

Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–700–2A12 airplanes. The NPRM published in the **Federal Register** on June 13, 2022 (87 FR 35686). The NPRM was prompted by AD CF–2021–45, dated December 7, 2021, issued by Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that the erroneous radio altimeter data was displayed on an in-service airplane. It was revealed that certain radio altimeter coaxial cables in the aft fuselage equipment bay had been reported damaged (from radio altimeters A28 and A29 to antennas), due their light weight construction, and their proximity to the access door on the eBay. The damage to or kinks in the radio altimeter coaxial cables, if not corrected, could lead to signal loss or degradation, and possibly un-annunciated loss of terrain awareness warning system aural cues during approach.

In the NPRM, the FAA proposed to require replacing affected radio altimeter coaxial cables. 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–2022–0677.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Netjets. The following presents the comment received on the NPRM and the FAA's response to the comment.

Request To Refer to Updated Bombardier Service Bulletin

Netjets stated Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022, has been released. The FAA infers that Netjets is requesting that the proposed AD be revised to refer to Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022 (the proposed AD refers to Bombardier Service Bulletin 700–91–7502, Revision 01, dated August 31, 2020, as the appropriate source of service information).

The FAA agrees with the request. Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022, adds minor changes that do not affect the substantive requirements proposed in the NPRM, including adding references to an advisory document and the MCAI AD. The FAA has revised this final rule to refer to Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022. The FAA has also revised paragraph (i) of this AD to provide credit for actions done in accordance with Bombardier Service Bulletin 700–91–7502, Revision 01, dated August 31, 2020.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022. This service information specifies procedures for replacing affected radio altimeter coaxial cables. The replacement includes removing the existing radio altimeter coaxial cables, replacing with new coaxial cables, installing new clamps to accommodate the coaxial bend radius along the coaxial routing, and re-routing new radio altimeter coaxial cables from the wing to fuselage fairing, in the left and right aft fuselage, and in the aft fuselage belly fairing.

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

Costs of Compliance

The FAA estimates that this AD affects 27 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
70 work-hours × $85 per hour = $5,950	$13,808	$19,758	$533,466

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–23–03 Bombardier, Inc.: Amendment 39–22230; Docket No. FAA–2022–0677; Project Identifier MCAI–2021–01378–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 9, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–2A12 airplanes, serial numbers 70006 through 70053 inclusive, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the investigation of erroneous radio altimeter data that was displayed on an in-service airplane. It was revealed that certain radio altimeter coaxial cables in the aft fuselage equipment bay were damaged. The FAA is issuing this AD to address damage to or kinks in the radio altimeter coaxial cables, which could lead to signal loss or degradation, and possibly un-annunciated loss of terrain awareness warning system aural cues during approach.

(f) Compliance

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

(g) Replacement of Radio Altimeter Coaxial Cables

Within 12 months after the effective date of this AD, replace affected radio altimeter coaxial cables, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022, except as specified in paragraph (h) of this AD.

(h) No Reporting Requirement

Although Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information identified in Bombardier Service Bulletin 700–91–7502, dated February 6, 2020; or Bombardier Service Bulletin 700–91–7502, Revision 01, dated August 31, 2020.

(j) Other FAA 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 Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Additional Information

(1) Refer to TCCA AD CF–2021–45, dated December 7, 2021, for related information. This TCCA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–0677.

(2) For more information about this AD, contact Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; email *9-avs-nyaco-cos@faa.gov.*

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

(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) Bombardier Service Bulletin 700–91–7502, Revision 02, dated April 5, 2022.

(ii) [Reserved]

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *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, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on October 27, 2022.

Christina Underwood,

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

[FR Doc. 2022–26354 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0797; Airspace Docket No. 20–ANM–44]

RIN 2120–AA66

Amendment of Class D Airspace and Establishment of Class E Airspace; Butts Army Airfield (AAF) (Fort Carson) Airport, CO

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

ACTION: Final rule.

SUMMARY: This action modifies the Class D surface area, and establishes Class E airspace extending upward from 700 feet above the surface at Butts AAF (Fort Carson) Airport, CO. Additionally, this action makes administrative changes to update the airport's existing Class D legal description. These actions will support the safety and management of instrument flight rules (IFR) and visual flight rules (VFR) operations at the airport.

DATES: Effective 0901 UTC, February 23, 2023. The Director of the Federal Register approves this incorporation by reference under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11, Airspace Designations and Reporting Points, and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would modify the Class D airspace and establish Class E airspace at Butts AAF (Fort Carson) Airport, CO, to support IFR and VFR operations at the airport.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for FAA–2022–0797 (87 FR 47150; August 2, 2022) to modify the Class D surface area, and establish Class E airspace extending upward from 700 feet above the surface at Butts AAF (Fort Carson) Airport, CO. Additionally, the NPRM proposed administrative changes to update the airport's legal description. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received which claimed: ''A proper environmental study was not done for these airspace changes or procedures for Fort Carson.'' This comment is inaccurate as proposed airspace changes were granted a categorical exclusion. See the ''Environmental Review'' section for further details.

Subsequent to the publication of the NPRM, the FAA discovered that the removal of the southeast extension to the Class D airspace was not mentioned in the proposed actions. This airspace area is no longer needed to contain departures until reaching 700 feet above the ground to the south, as the existing 4.3-mile radius of airspace surrounding the airport is sufficient. Additionally, the Iron Horse Nondirectional Beacon (NDB) previously used to describe the southeast extension is no longer needed, and can be removed from the legal description's text header. The geographical coordinates of the airport are more appropriate for describing the airspace at Butts AAF, and will be used in the final Class D airspace legal description.

Class D and Class E5 airspace designations are published in paragraphs 5000 and 6005, respectively, of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 by modifying the Class D surface area, and establishing Class E airspace extending upward from 700 feet above the surface at Butts AAF (Fort Carson) Airport, CO.

Class D airspace is extended to the northwest to contain Runway 31 departures until reaching 700 feet above the surface due to rising terrain in that area. The extension southeast of the airport is removed, as it is no longer needed to contain departures until reaching 700 feet above the ground to the south, and the existing 4.3-mile radius of airspace surrounding the airport is sufficient.

Class E airspace extending upward from 700 feet above the surface is established southeast and north of the airport to properly contain departures until reaching 1,200 feet above the surface in those areas.

Finally, this action makes several administrative modifications to the Class D airspace legal description. The airport name in the text header is corrected to read: ''Butts AAF (Fort Carson) Airport, CO.'' The other airport referenced in the Class D legal description is corrected to read: ''City of Colorado Springs Municipal Airport, CO.'' The geographic coordinates for both Butts AAF (Fort Carson) Airport, CO and the City of Colorado Springs Municipal Airport, CO, are updated to match the FAA's database. Additionally, the outdated terms ''Notice to Airmen'' and ''Airport/Facility Directory'' have been replaced with the terms ''Notice to Air Missions'' and ''Chart Supplement'' respectively, to better match the FAA's current nomenclature. Lastly, reference to the ''Iron Horse NDB, CO'' is removed from the Class D legal description's text header, as it's no longer required to describe the airspace, and its removal simplifies the legal description.

Class D and Class E5 airspace designations are published in paragraphs 5000 and 6005, respectively, of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11 is published annually and becomes effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, incorporation by reference, navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ANM CO D Fort Carson, CO [Amended]

Butts AAF (Fort Carson) Airport, CO
(Lat. 38°40′47″ N, long. 104°45′39″ W)
City of Colorado Springs Municipal Airport, CO
(Lat. 38°48′21″ N, long. 104°42′03″ W)

That airspace extending upward from the surface to but not including 8,400 feet MSL within a 4.3-mile radius of Butts Army Airfield Airport, and within 2.3 miles each side of the 331° bearing from the Butts Army Airfield Airport extending from the 4.3-mile radius to 6.9 miles northwest of the airport, excluding that airspace within the City of Colorado Springs Municipal Airport's Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM CO E5 Fort Carson, CO [New]

Butts AAF (Fort Carson) Airport, CO
(Lat. 38°40′47″ N, long. 104°45′39″ W)

That airspace extending upward from 700 feet above the surface within 2.0 miles each side of the 125° bearing from the airport extending from the Butts Army Airfield Airport Class D to 7.7 miles southeast of the airport, and within 2.1 miles each side of the 342° bearing from the airport extending from the Butts Army Airfield Airport Class D to 9 miles north of the airport.

Issued in Des Moines, Washington, on November 29, 2022.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–26349 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0376; Airspace Docket No. 22–ANE–4]

RIN 2120–AA66

Amendment of Class E Airspace; Montpelier, VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: A final rule was published in the **Federal Register** on June 10, 2022, amending Class E surface airspace and Class E airspace extending upward from 700 feet above the surface for Edward F. Knapp State Park Airport, Montpelier, VT. This action corrects the Class E airspace extending upward from 700 feet above the surface description by adding the words, excluding that airspace within a 1¾-mile radius of Warren-Sugarbush Airport.

DATES: Effective 0901 UTC, February 23, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

History

The FAA published a final rule in the **Federal Register** (87 FR 35383, June 10, 2022) for Doc. No. FAA–2022–0376, to amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Edward F. Knapp State Park Airport, Montpelier, VT, due to the decommissioning of the Mount Mansfield non-directional beacon (NDB) and cancellation of associated approaches, as well as updating the airport's geographic coordinates.

Subsequent to publication, the FAA found that Warren-Sugarbush Airport was located too close to the Class E airspace extending upward from 700 feet above the surface at Edward F. Knapp State Park Airport. This action corrects this error.

Class E airspace designations are published in Paragraphs 6002 and 6005,

respectively, of FAA Order JO 7400.11G dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11G.

Technical Amendment

This action amends (14 CFR) part 71 by correcting the Class E airspace extending upward from 700 feet above the surface description by adding the words, ''excluding that airspace within a 1¾-mile radius of Warren-Sugarbush Airport''.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraphs 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANE VT E5 Montpelier, VT [Amended]

Edward F. Knapp State Airport, VT
(Lat. 44°12′13″ N, long. 72°33′44″ W)

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Edward F. Knapp State Airport, excluding that airspace within a 1¾-mile radius of Warren-Sugarbush Airport.

Issued in College Park, Georgia, on November 29, 2022.

Lisa E. Burrows,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–26285 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31462; Amdt. No. 569]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective 0901 UTC, December 29, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73125. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on November 25, 2022.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, December 29, 2022.

PART 95—IFR ALTITUDES

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113 and 14 CFR 11.49(b)(2)

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 569 effective date December 29, 2022]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3241 RNAV Route T241 Is Amended by Adding			
LATCH, AK FIX	FOROP, AK WP	** 1700	17500
* 3800—MCA	FOROP, AK WP, NE BND.		
** 1200—MOCA.			
FOROP, AK WP	AKCAR, AK WP	4600	17500
AKCAR, AK WP	LEVEL ISLAND, AK VOR/DME	4800	17500
LEVEL ISLAND, AK VOR/DME	ZIDRA, AK WP	5800	17500
§ 95.3256 RNAV Route T256 Is Amended by Adding			
SAN ANTONIO, TX VORTAC	LDRET, TX WP	3000	17500
LDRET, TX WP	MOLLR, TX WP	2400	17500
SABINE PASS, TX VOR/DME	GUSTI, LA FIX	2000	17500
GUSTI, LA FIX	DAFLY, LA WP	2800	17500
Is Amended To Delete			
SAN ANTONIO, TX VORTAC	EAGLE LAKE, TX VOR/DME	3000	17500
EAGLE LAKE, TX VOR/DME	MOLLR, TX WP	2400	17500
§ 95.3266 RNAV Route T266 Is Amended by Adding			
U.S. CANADIAN BORDER	AKCAP, AK WP	* 9100	17500
* 8300—MCA	AKCAP, AK WP, N BND.		
AKCAP, AK WP	ZEDEM, AK WP	8100	17500
ZEDEM, AK WP	FEDMI, AK WP	* 8100	17500
* 7900—MCA	FEDMI, AK WP, N BND.		
FEDMI, AK WP	BAVKE, AK WP	* 7400	17500
* 7800—MCA	BAVKE, AK WP, SE BND.		
BAVKE, AK WP	ROTVE, AK WP	8200	17500
ROTVE, AK WP	WONOS, AK WP	* 8200	17500
* 7600—MCA	WONOS, AK WP, NW BND.		
WONOS, AK WP	COPOG, AK WP	7400	17500
COPOG, AK WP	JAPOR, AK WP	* 6900	17500
* 5800—MCA	JAPOR, AK WP, NW BND.		
JAPOR, AK WP	NIGPE, AK WP	* 5700	17500
* 5000—MCA	NIGPE, AK WP, NW BND.		
NIGPE, AK WP	GUMLE, AK WP	4500	17500
GUMLE, AK WP	ZONPU, AK WP	4200	17500
ZONPU, AK WP	ZADED, AK WP	* 4300	17500
* 5100—MCA	ZADED, AK WP, SE BND.		
ZADED, AK WP	RADKY, AK FIX	6700	17500
NEREE, AK WP	ZIDRA, AK WP	* 4900	17500
* 4900—MCA	ZIDRA, AK WP, SE BND.		
ZIDRA, AK WP	VAZPU, AK WP	* 4900	17500
* 5200—MCA	VAZPU, AK WP, SE BND.		
Is Amended To Read in Part			
RADKY, AK FIX	UNEKY, AK FIX	7000	17500
UNEKY, AK FIX	XADZY, AK WP	* 6400	17500
* 5900—MCA	XADZY, AK WP, NW BND.		
XADZY, AK WP	VULHO, AK WP	5800	17500
VULHO, AK WP	FOGID, AK WP	* 5300	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 569 effective date December 29, 2022]

From	To	MEA	MAA
*4800—MCA	FOGID, AK WP, NW BND.		
FOGID, AK WP	YICAX, AK WP	*4500	17500
*4800—MCA	YICAX, AK WP, SE BND.		
DOOZI, AK FIX	GIRTS, AK FIX	5300	17500
GIRTS, AK FIX	ANNETTE ISLAND, AK VOR/DME	5000	17500
§ 95.3269 RNAV Route T269 Is Amended by Adding			
TOKEE, AK FIX	AKCAR, AK WP	4700	17500
AKCAR, AK WP	FLIPS, AK FIX	*5600	17500
*5100—MOCA.			
MALAS, AK FIX	OXIDS, AK WP	*2800	17500
*2200—MCA	OXIDS, AK WP, E BND.		
OXIDS, AK WP	FOGNU, AK WP	2000	17500
FOGNU, AK WP	HORGI, AK WP	*2800	17500
*2500—MCA	HORGI, AK WP, E BND.		
HORGI, AK WP	ZIXIM, AK WP	*2400	17500
*2500—MCA	ZIXIM, AK WP, W BND.		
ZIXIM, AK WP	JOVOM, AK WP	3700	17500
JOVOM, AK WP	OXUGE, AK WP	3700	17500
OXUGE, AK WP	KATAT, AK FIX	*5200	17500
*4900—MCA	KATAT, AK FIX, E BND.		
ACRAN, AK FIX	ZOKAM, AK WP	5200	17500
ZOKAM, AK WP	VIDDA, AK FIX	*5900	17500
*3100—MCA	VIDDA, AK FIX, E BND.		
Is Amended To Read in Part			
ANNETTE ISLAND, AK VOR/DME	TURTY, AK WP	5600	17500
TURTY, AK WP	TOKEE, AK FIX	4800	17500
FLIPS, AK FIX	BIORKA ISLAND, AK VORTAC	5300	17500
BIORKA ISLAND, AK VORTAC	SALIS, AK FIX	*4900	17500
*4400—MOCA.			
SALIS, AK FIX	HAPIT, AK FIX	*1700	17500
*1200—MOCA.			
HAPIT, AK FIX	CENTA, AK FIX	**2200	17500
*1700—MCA	CENTA, AK FIX, NW BND.		
**1200—MOCA.			
CENTA, AK FIX	YAKUTAT, AK VOR/DME	*2400	17500
*2400—MCA	YAKUTAT, AK VOR/DME, W BND.		
YAKUTAT, AK VOR/DME	MALAS, AK FIX	*2700	17500
*2800—MCA	MALAS, AK FIX, W BND.		
KATAT, AK FIX	CASEL, AK FIX	4700	17500
JOHNSTONE POINT, AK VOR/DME	FIMIB, AK WP	*4000	17500
*5200—MCA	FIMIB, AK WP, W BND.		
FIMIB, AK WP	ANCHORAGE, AK VOR/DME	*8800	17500
*6200—MCA	ANCHORAGE, AK VOR/DME, E BND.		
ANCHORAGE, AK VOR/DME	YONEK, AK FIX	*3000	17500
*6000—MCA	YONEK, AK FIX, W BND.		
YONEK, AK FIX	TORTE, AK FIX	*5000	17500
*8700—MCA	TORTE, AK FIX, W BND.		
TORTE, AK FIX	VEILL, AK FIX	*10400	17500
*8000—MCA	VEILL, AK FIX, E BND.		
VEILL, AK FIX	FAMEK, AK WP	*7200	17500
*7200—MCA	FAMEK, AK WP, E BND.		
FAMEK, AK WP	SPARREVOHN, AK VOR/DME	*6600	17500
*6000—MOCA.			
SPARREVOHN, AK VOR/DME	ACRAN, AK FIX	5500	17500
BETHEL, AK VORTAC	MKLUK, AK WP	*3200	17500
*1500—MOCA.			
§ 95.3278 RNAV Route T278 Is Amended by Adding			
CSPER, AK FIX	BIKUW, AK WP	4800	17500
BIKUW, AK WP	SISTERS ISLAND, AK VORTAC	4400	17500
SISTERS ISLAND, AK VORTAC	RADKY, AK FIX	6700	17500
Is Amended To Delete			
CSPER, AK FIX	SISTERS ISLAND, AK VORTAC	5300	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 569 effective date December 29, 2022]

From	To	MEA	MAA
Is Amended To Read in Part			
HAPIT, AK FIX	CSPER, AK FIX	*4000	17500
*4300—MCA	CSPER, AK FIX, NE BND.		
§ 95.3371 RNAV Route T371 Is Added To Read			
KODIAK, AK VOR/DME	JEKEX, AK FIX	4900	17500
JEKEX, AK FIX	HAMPU, AK WP	4200	17500
HAMPU, AK WP	AMOTT, AK FIX	3100	17500
§ 95.3374 RNAV Route T374 Is Added To Read			
KOTZEBUE, AK VOR/DME	CIBDU, AK WP	2600	17500
CIBDU, AK WP	ZUBES, AK WP	*10000	17500
*4000—MOCA.			
ZUBES, AK WP	CUTIB, AK WP	*10000	17500
*4200—MOCA.			
CUTIB, AK WP	NINGE, AK WP	*10000	17500
*4300—MOCA.			
NINGE, AK WP	WUNED, AK WP	*10000	17500
*5100—MOCA.			
WUNED, AK WP	CEREX, AK WP	5000	17500
CEREX, AK WP	WEPSI, AK WP	*5000	17500
*4600—MCA	WEPSI, AK WP, SW BND.		
WEPSI, AK WP	BETTLES, AK VOR/DME	*4600	17500
*4700—MCA	BETTLES, AK VOR/DME, E BND.		
BETTLES, AK VOR/DME	FORT YUKON, AK VORTAC	6700	17500
§ 95.3377 RNAV Route T377 Is Added To Read			
ANNETTE ISLAND, AK VOR/DME	INEPE, AK WP	5500	17500
INEPE, AK WP	FOROP, AK WP	4900	17500
FOROP, AK WP	BIORKA ISLAND, AK VORTAC	5300	17500
§ 95.3378 RNAV Route T378 Is Added To Read			
BRION, AK FIX	URIAL, AK WP	*5100	17500
*3300—MCA	URIAL, AK WP, SW BND.		
URIAL, AK WP	JIFFS, AK WP	2900	17500
JIFFS, AK WP	ZUSPA, AK WP	*2500	17500
*1700—MOCA.			
ZUSPA, AK WP	DUTKE, AK WP	*2500	17500
*1700—MOCA.			
DUTKE, AK WP	FORT YUKON, AK VORTAC	*2500	17500
*1700—MOCA.			
§ 95.3399 RNAV Route T399 Is Added To Read			
TALKEETNA, AK VOR/DME	EGRAM, AK FIX	*6000	17500
*6600—MCA	EGRAM, AK FIX, N BND.		
EGRAM, AK FIX	ZEKLI, AK WP	*6400	17500
*7000—MCA	ZEKLI, AK WP, N BND.		
ZEKLI, AK WP	AILEE, AK WP	*10000	17500
*9000—MCA	AILEE, AK WP, S BND.		
AILEE, AK WP	CRISL, AK WP	*8100	17500
*8000—MCA	CRISL, AK WP, S BND.		
CRISL, AK WP	PAWWW, AK WP	*6900	17500
*7000—MCA	PAWWW, AK WP, S BND.		
PAWWW, AK WP	EVIEE, AK WP	*5800	17500
*6100—MCA	EVIEE, AK WP, S BND.		
EVIEE, AK WP	SEAHK, AK WP	*4000	17500
*4600—MCA	SEAHK, AK WP, S BND.		
SEAHK, AK WP	NENANA, AK VORTAC	*3300	17500
*2800—MOCA.			
§ 95.3462 NAV Route T462 Is Added To Read			
BISMARCK, ND VOR/DME	WISEK, ND FIX	3900	17500
WISEK, ND FIX	IRIWY, ND FIX	4000	17500
IRIWY, ND FIX	ABERDEEN, SD VOR/DME	3900	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 569 effective date December 29, 2022]

From	To	MEA	MAA
ABERDEEN, SD VOR/DME	FIBDA, SD WP	3000	17500
FIBDA, SD WP	WICKA, SD FIX	3600	17500
WICKA, SD FIX	FFORT, SD WP	*3700	17500
*3200—MOCA.			
FFORT, SD WP	DAWSO, MN WP	3800	17500
DAWSO, MN WP	CLAPS, MN FIX	2800	17500
CLAPS, MN FIX	FITAS, MN FIX	2900	17500
FITAS, MN FIX	GENEO, MN WP	3000	17500
§ 95.3464 RNAV Route T464 Is Added To Read			
CUSAY, WI WP	TONOC, WI FIX	3400	17500
TONOC, WI FIX	EDGRR, WI WP	3200	17500
EDGRR, WI WP	HEVAV, WI WP	3300	17500
HEVAV, WI WP	CHURP, WI FIX	3100	17500
§ 95.3466 RNAV Route T466 Is Added To Read			
SAN ANGELO, TX VORTAC	CHILD, TX FIX	4000	17500
CHILD, TX FIX	JUNCTION, TX VORTAC	4000	17500
JUNCTION, TX VORTAC	STONEWALL, TX VORTAC	*4000	17500
STONEWALL, TX VORTAC	GOBBY, TX FIX	4100	17500
GOBBY, TX FIX	BETTI, TX FIX	3400	17500
BETTI, TX FIX	MARCS, TX FIX	2900	17500
MARCS, TX FIX	SEEDS, TX WP	2400	17500
SEEDS, TX WP	LDRET, TX WP	3000	17500
LDRET, TX WP	KEEDS, TX WP	1900	17500
KEEDS, TX WP	SCHOLES, TX VOR/DME	3100	17500
SCHOLES, TX VOR/DME	SABINE PASS, TX VOR/DME	2000	17500

From	To	MEA
§ 95.6001 Victor Routes–U.S		
§ 95.6024 VOR Federal Airway V24 Is Amended To Delete		
ABERDEEN, SD VOR/DME	WATERTOWN, SD VORTAC	3600
WATERTOWN, SD VORTAC	REDWOOD FALLS, MN VOR/DME	3800
§ 95.6026 VOR Federal Airway V26 Is Amended To Delete		
EAU CLAIRE, WI VORTAC	EDGRR, WI WP.	
*2900—MOCA	E BND	*7500
	W BND	*4500
EDGRR, WI WP	WAUSAU, WI VOR/DME	*7500
*3600—MOCA.		
*3600—GNSS MEA.		
WAUSAU, WI VOR/DME	CHURP, WI FIX	*8000
*3000—GNSS MEA.		
CHURP, WI FIX	GREEN BAY, WI VORTAC	*7000
*2400—MOCA.		
§ 95.6036 VOR Federal Airway V36 Is Amended by Adding		
U.S. CANADIAN BORDER U.S.	CANADIAN BORDER	*8000
*3000—MOCA.		
§ 95.6063 VOR Federal Airway V63 Is Amended To Delete		
WAUSAU, WI VOR/DME	ENETE, WI FIX	UNUSABLE.
ENETE, WI FIX	YANUT, WI FIX	UNUSABLE.
YANUT, WI FIX	RHINELANDER, WI VOR/DME	UNUSABLE.
§ 95.6078 VOR Federal Airway V78 Is Amended To Delete		
WATERTOWN, SD VORTAC	CLAPS, MN FIX	*5500
*3300—MOCA.		
CLAPS, MN FIX	DARWIN, MN VORTAC	3000
§ 95.6181 VOR Federal Airway V181 Is Amended To Delete		
SIOUX FALLS, SD VORTAC	WATERTOWN, SD VORTAC	4000

From	To	MEA
WATERTOWN, SD VORTAC	BANEY, ND WP	4500
BANEY, ND WP	FARGO, ND VOR/DME.	
	N BND	2800
	S BND	3900
§ 95.6198 VOR Federal Airway V198 Is Amended To Delete		
SAN ANTONIO, TX VORTAC	SEEDS, TX WP	2900
SEEDS, TX WP	WEMAR, TX WP	*2500
*2000—MOCA.		
WEMAR, TX WP	EAGLE LAKE, TX VOR/DME	2000
§ 95.6212 VOR Federal Airway V212 Is Amended To Delete		
SAN ANTONIO, TX VORTAC	SEEDS, TX WP	2900
SEEDS, TX WP	WEMAR, TX WP	*2500
*2000—MOCA.		
WEMAR, TX WP	INDUSTRY, TX VORTAC	2000
§ 95.6398 VOR Federal Airway V398 Is Amended To Delete		
ABERDEEN, SD VOR/DME	WATERTOWN, SD VORTAC	3600
WATERTOWN, SD VORTAC	REDWOOD FALLS, MN VOR/DME	3800
§ 95.6437 VOR Federal Airway V437 Is Amended To Read in Part		
ORMOND BEACH, FL VORTAC	JETSO, FL FIX	*3000
*1400—MOCA.		
JETSO, FL FIX	*SUBER, FL FIX	**5000
*8000—MCA	SUBER, FL FIX, N BND.	
**1300—MOCA.		
SUBER, FL FIX	HOTAR, FL FIX	*8000
*1300—MOCA.		
§ 95.6495 VOR Federal Airway V495 Is Amended To Read in Part		
LOFAL, WA FIX	*SEATTLE, WA VORTAC	**4000
*4700—MCA	SEATTLE, WA VORTAC, S BND.	
**2800—MOCA.		
SEATTLE, WA VORTAC	CIDUG, WA FIX.	
	S BND	*9000
	N BND	*5000
*3000—GNSS MEA.		
CIDUG, WA FIX	*ALDER, WA FIX.	
	S BND	**9000
	N BND	**5000
*9000—MCA	ALDER, WA FIX, S BND.	
**4200—GNSS MEA.		
ALDER, WA FIX	*TOUTL, WA FIX	**9000
*9000—MCA	TOUTL, WA FIX, N BND.	
**7000—GNSS MEA.		
§ 95.6507 VOR Federal Airway V507 Is Amended To Read in Part		
WILL ROGERS, OK VORTAC	WAXEY, OK FIX.	
	W BND	*9300
	E BND	*5000
*3400—MOCA.		
*4000—GNSS MEA.		
WAXEY, OK FIX	ROLLS, OK FIX.	
	W BND	*11000
	E BND	*9300
*3800—MOCA.		
*4000—GNSS MEA.		
§ 95.6520 VOR Federal Airway V520 Is Amended To Read in Part		
CLOVA, WA FIX	*NEZ PERCE, ID VOR/DME.	
	NE BND	6000
	SW BND	8000
*10000—MCA	NEZ PERCE, ID VOR/DME, E BND.	
NEZ PERCE, ID VOR/DME	ZATIP, ID FIX.	
	E BND	12000
	W BND	6800

From	To	MEA
ZATIP, ID FIX	SALMON, ID VOR/DME	12000
§ 95.6551 VOR Federal Airway V551 Is Amended To Read in Part		
SALINA, KS VORTAC	MANKATO, KS VORTAC	6000
§ 95.6556 VOR Federal Airway V556 Is Amended To Delete		
STONEWALL, TX VORTAC	MARCS, TX FIX	4500
MARCS, TX FIX	SEEDS, TX WP	*7500
*2000—MOCA.		
SEEDS, TX WP	WEMAR, TX WP	*2500
*2000—MOCA.		
WEMAR, TX WP	EAGLE LAKE, TX VOR/DME	2000
EAGLE LAKE, TX VOR/DME	KEEDS, TX WP	2500
KEEDS, TX WP	SCHOLES, TX VOR/DME	3100
§ 95.6558 VOR Federal Airway V558 Is Amended To Delete		
INDUSTRY, TX VORTAC	EAGLE LAKE, TX VOR/DME	2000
§ 95.6317 Alaska VOR Federal Airway V317 Is Amended To Read in Part		
LEVEL ISLAND, AK VOR/DME	HOODS, AK FIX	*10000
*6000—MOCA.		
HOODS, AK FIX	SISTERS ISLAND, AK VORTAC.	
	SE BND	*10000
	NW BND	*7000
*5500—MOCA.		
§ 95.6436 Alaska VOR Federal Airway V436 Is Amended by Adding		
EGRAM, AK FIX	*AILEE, AK WP	10000
*9000—MCA	AILEE, AK WP, S BND.	
AILEE, AK WP	*DATAY, AK FIX.	
	N BND	8400
	S BND	10000
*7500—MCA	DATAY, AK FIX, S BND.	
DATAY, AK FIX	*ENTTA, AK FIX.	
	N BND	6400
	S BND	8400
*5100—MCA	ENTTA, AK FIX, S BND.	
ENTTA, AK FIX	FAIRBANKS, AK VORTAC	3400
Is Amended To Delete		
EGRAM, AK FIX	NENANA, AK VORTAC	10000
NENANA, AK VORTAC	GOLLY, AK FIX	4000
GOLLY, AK FIX	TOLLO, AK FIX	*4000
*3400—MOCA.		
TOLLO, AK FIX	LIVEN, AK FIX	5000
LIVEN, AK FIX	BEETE, AK FIX	*10000
*5500—MOCA.		
BEETE, AK FIX	CHANDALAR LAKE, AK NDB	*10000
*6900—MOCA.		
CHANDALAR LAKE, AK NDB	*ARTIC, AK WP	10000
*7000—MCA	ARTIC, AK WP, SE BND.	
ARTIC, AK WP	PIPET, AK FIX.	
	SE BND	*10000
	NW BND	*6000
*4500—MOCA.		
*5000—GNSS MEA.		
PIPET, AK FIX	BIXER, AK WP.	
	SE BND	*10000
	NW BND	*5000
*3900—MOCA.		
*4000—GNSS MEA.		
BIXER, AK WP	ARCON, AK FIX.	
	SE BND	10000
	NW BND	3000
ARCON, AK FIX	DEADHORSE, AK VOR/DME.	
	SE BND	10000
	NW BND	2000

From	To	MEA
Is Amended To Read in Part		
TALKEETNA, AK VOR/DME *7000—MCA EGRAM, AK FIX, N BND.	*EGRAM, AK FIX	6000
§ 95.6453 Alaska VOR Federal Airway V453 Is Amended To Read in Part		
KING SALMON, AK VORTAC *2500—MCA DILLINGHAM, AK VOR/DME *6500—MOCA. *3600—GNSS MEA. ALTEY, AK FIX *3600—MCA **6500—MOCA. EDUCE, AK FIX *2500—MOCA. *3000—GNSS MEA.	*DILLINGHAM, AK VOR/DME DILLINGHAM, AK VOR/DME, NW BND. ALTEY, AK FIX. SE BND NW BND *EDUCE, AK FIX EDUCE, AK FIX, SE BND. BETHEL, AK VORTAC. NW BND SE BND	2100 *7000 *8000 **8000 *4000 *8000
§ 95.6473 Alaska VOR Federal Airway V473 Is Amended To Read in Part		
LEVEL ISLAND, AK VOR/DME *9000—MCA **6300—MOCA.	*FLIPS, AK FIX FLIPS, AK FIX, E BND.	**9000

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7125 Jet Route J125 Is Amended To Delete**			
ANCHORAGE, AK VOR/DME	TALKEETNA, AK VOR/DME	18000	45000
TALKEETNA, AK VOR/DME	NENANA, AK VORTAC	18000	45000
§ 95.7591 Jet Route J591 Is Amended To Delete			
WHATCOM, WA VORTAC	U.S. CANADIAN BORDER	18000	45000

Airway segment		Changeover Points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Point **V26 Is Amended To Delete Changeover Point**			
EAU CLAIRE, WI VORTAC	WAUSAU, WI VOR/DME	71	EAU CLAIRE.
WAUSAU, WI VOR/DME	GREEN BAY, WI VORTAC	8	WAUSAU.
V198 Is Amended To Delete Changeover Point			
SAN ANTONIO, TX VOR/DME	EAGLE LAKE, TX VOR/DME	63	SAN ANTONIO.
V212 Is Amended To Delete Changeover Point			
SAN ANTONIO, TX VOR/DME	EAGLE LAKE, TX VOR/DME	63	SAN ANTONIO.
V495 Is Amended To Delete Changeover Point			
BATTLE GROUND, WA VORTAC	SEATTLE, WA VORTAC	20	BATTLE GROUND.
Alaska V436 Is Amended To Delete Changeover Point			
TALKEETNA, AK VOR/DME	NENANA, AK VORTAC	50	TALKEETNA.
NENANA, AK VORTAC	CHANDALAR LAKE, AK NDB	120	NENANA.
CHANDALAR LAKE, AK NDB	DEADHORSE, AK VOR/DME	63	CHANDALAR LAKE.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1307

[Docket No. CPSC–2014–0033]

Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates

AGENCY: Consumer Product Safety Commission.

ACTION: Availability of Response to Comments and Commission Finding.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is publishing this document in response to a federal court decision remanding the Commission's final phthalates rule, without vacatur, to allow the Commission to address two procedural deficiencies the court found. This document provides notice of the availability of CPSC staff's memorandum responding to public comments on the justification for the phthalates final rule and on the staff's cost-benefit analysis of continuing the interim prohibition on diisononyl phthalate (DINP). This document also provides the Commission's finding that further rulemaking is not warranted at this time.

DATES: December 5, 2022.

FOR FURTHER INFORMATION CONTACT: Susan Proper, Directorate for Economic Analysis, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7628; email: *sproper@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 108(b)(3) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) required the Commission to promulgate a final rule addressing children's toys and child care articles containing certain phthalates, not later than 180 days after the Commission received a final Chronic Hazard Advisory Panel (CHAP) report. 15 U.S.C. 2057c(b)(3). The Commission was required to ''determine, based on such report, whether to continue in effect'' the statutory interim prohibition on children's toys that can be placed in a child's mouth and child care articles ''in order to ensure a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals with an adequate margin of safety.'' 15 U.S.C. 2057c(b)(1), (3)(A). Additionally, the Commission was required to ''evaluate the findings and recommendations of the Chronic Hazard Advisory Panel and declare any children's product containing any phthalates to be a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057), as the Commission determines necessary to protect the health of children.'' 15 U.S.C. 2057c(b)(3)(B).

On December 30, 2014, the Commission published a notice of proposed rulemaking (NPR) in the **Federal Register**. 79 FR 78324. The NPR stated the Commission proposed to prohibit the manufacture for sale, offer for sale, distribution in commerce, or importation into the United States of any children's toy or child care article containing any of the phthalates specified in the proposed rule. The Commission published a final rule on October 27, 2017, with an effective date of April 25, 2018. 82 FR 49938. The final rule was substantially the same as the proposed rule. The preambles to the NPR and final rule provide detailed discussions of the CHAP report and staff's technical analysis and findings in support of the rule.

In December 2017, the Texas Association of Manufacturers and other parties petitioned the U.S. Court of Appeals for the Fifth Circuit for a review of the CPSC's final phthalates rule. In March 2021, the court remanded the phthalates final rule to the CPSC to address two procedural deficiencies the court found. *Tex. Ass'n. of Mfrs.* v. *CPSC,* 989 F.3d 368 (5th Cir. 2021). As relevant here, the court held that the final rule failed to: (1) provide adequate notice and comment regarding a change in the primary justification from the proposed rule to the final rule; and (2) consider the costs and benefits of continuing the interim prohibition on DINP as a permanent prohibition. Because the court did not vacate the final rule, the rule has remained in effect since 2018.

II. Staff's Response to Comments

In March 2022, the Commission published a request for comment from the public regarding the two procedural deficiencies the court found. 87 FR 16635 (March 24, 2022). The notice sought public comment on the justification for the final rule, and on the staff's costs and benefits analysis (CBA) regarding continuing the statutory interim prohibition on DINP. CPSC received four public comments (excluding duplicates). The commenters were:

- The American Chemistry Council (ACC);
- A group consisting of the Natural Resources Defense Council, the Environmental Justice Health Alliance for Chemical Policy Reform, Public Citizen, Coming Clean, Earthjustice, the Campaign for Healthier Solutions, and Breast Cancer Prevention Partners (collectively, NRDC et al.); and
- Two individuals (Maranda and Harding).

Two of the four comments (NRDC et al. and Harding) were largely supportive of the rule and of the staff CBA. Two of the four comments (ACC and Maranda) were critical of the rule and of the staff CBA but did not present new data or information within scope of the notice requesting comments. Based on its analysis of the comments and the scope of the court's remand, CPSC staff recommends no further action is necessary to revise the final rule. Section II of this document provides a brief overview of the in-scope comments received in response to the March 2022 request for comment and staff's responses. The complete staff analysis of the comments, including those outside the scope of the request, can be found in the memorandum, ''Staff Responses to Request for Comments on Final Rule: 16 CFR part 1307 'Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates,''' available at: *https://www.cpsc.gov/s3fs-public/Staff-Responses-to-Request-for-Comments-on-Final-Rule-16-CFR-Part-1307-Prohibition-of-Childrens-Toys-and-Child-Care-Articles-Containing-Specified-Phthalates.pdf?VersionId=RWiDEFGrye2fjlalXFSayKafroEj4C7l.*

A. Comments on Justification for the Phthalates Final Rule

Below are brief descriptions of the comments that were submitted on the issues presented for public input regarding the justification for the final rule, and staff's analysis of those comments.

- NRDC et al. commented that the court remanded the rule to correct procedural issues, not for CPSC to reevaluate the underlying science or examine new data provided after the final rule was issued in 2017. Staff agrees with the commenter that data submitted after the rule issuance in 2017 are not within the proper scope of this proceeding on remand.
- NRDC et al. commented that the data confirm that the rule is necessary to provide a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals with an adequate margin of safety. In contrast, ACC and Maranda commented that the data in the administrative record did not

support the final rule. Staff responds explaining that the justification for the proposed rule was based, in part, on the CHAP's 2014 finding that 5 percent of infants and 10 percent of pregnant women had a HI greater than one.[1] When the 2017 final rule was issued, phthalate exposures in women of reproductive age—a surrogate for pregnant women—had declined, but some women of reproductive age had a hazard index (HI) greater than one. New data on infants and pregnant women were not available. Staff, therefore, concluded that absent continuation of the interim prohibition, phthalate exposures and risks would be inconsistent with the Commission's statutory obligation to ''ensure a reasonable certainty of no harm with an adequate margin of safety.'' 15 U.S.C. 2057c(b)(3)(A).

• ACC commented that data published by the Centers for Disease Control and Prevention after the final rule was issued undermined the final rule by demonstrating declining phthalate exposures in the general population, as well as women of reproductive age. Staff's response explains why the data did not undermine the rule, and instead demonstrated the effectiveness of this and similar rules, and why the data were not relevant to the court's remand.

• Maranda commented that the CHAP proved that DINP is safe. Staff disagrees that the CHAP found that DINP is ''safe'' and notes that the CHAP specifically recommended that the interim prohibition on DINP be continued.

B. Comments on Cost-Benefit Analysis of Continuing the Interim Prohibition of DINP

Below are brief descriptions of the in-scope comments that were submitted on the staff's analysis of the costs and benefits of continuing the interim prohibition on DINP.

Costs Issues

Comments were submitted on the following issues regarding the costs of continuing the interim prohibition on DINP.

• ACC commented that that the CBA underestimated the likely economic costs of maintaining the interim prohibition on DINP, while NRDC et al. argued that the CBA overestimated the costs. Harding commented that the CBA showed that the prohibition on DINP protects vulnerable populations without significant costs. Staff's response explains why the CBA did not underestimate or overestimate those costs.

• ACC provided alternate ''baseline'' scenarios to estimate the costs and benefits of the rule, given its allegation that many suppliers currently do not comply with the rule. ACC also stated that CPSC should have considered the costs to suppliers' confiscation and destruction of illegally imported products containing violative levels of DINP. Staff's response notes that the CBA analyzed the costs of compliance with the rule for all applicable suppliers, and the benefits to consumers and society from the reduced exposure to phthalates resulting from that compliance, which was the scope of analysis required by the court's remand.

• Citing information from the CBA on the cost of reformulation for toy suppliers, ACC commented that there is evidence that DINP is still cost-effective after the CPSIA's interim prohibition because it is being used in toys sold in foreign countries. Staff's response notes that ACC did not provide new information or data on prices of toys or DINP before or after the rule that CPSC could use to quantify the impacts on foreign businesses or importers, which CPSC previously discussed and analyzed in the CBA.

• ACC commented that the rule created a ''stigma'' around DINP and thus, had a negative impact on markets for other consumer goods, causing consumers to demand DINP-free flooring, for example. NRDC et al. commented that the CBA ''appropriately rejects'' the notion that the interim prohibition on DINP or the final rule meaningfully affected the general market transition away from phthalates to non-phthalate plasticizers. Staff's response notes that, as discussed in the CBA, consumer opposition to phthalates in consumer products other than toys began before the enactment of the CPSIA and the promulgation of the final rule and has continued to grow after the final rule went into effect, as evidenced by recent state-level legislation that applies to many products outside the scope of CPSC's jurisdiction.

• ACC commented that although the price of toys declined during the interim prohibition, the CPSC did not prove that the rule had no impact on the retail price of toys, because prices could have been even lower absent the rule. ACC suggested that CPSC should have done more analysis of other inputs and production costs that might have impacted the price of toys for consumers. NRDC et al. generally expressed support for the analysis in the CBA that continuation of the interim prohibition on DINP had no measurable impact on the prices for either DINP or toys. Staff's response notes that ACC did not provide any specific data showing that other input or production costs changed, or that such changes increased the price of toys to U.S. consumers. Furthermore, the CBA did not state that the rule had no impact on the price of toys, but rather, assessed that ''the impact was minor, both in absolute terms and compared to other impacts on the market.'' No commenters representing consumers stated that the interim prohibition had raised the price of toys or child care articles, nor did any toy or child care article importers provide such comments.

• ACC commented that there may have been additional negative effects on the market for phthalates and plasticizers that CPSC failed to analyze. Staff's response notes that commenters did not provide any new information to support or counter the analysis in the CBA, which noted that there might be additional, non-quantifiable effects on the markets for both plasticizers and toys.

• Two commenters, ACC and NRDC et al., commented on CPSC's characterization of the consistency of the final rule with state and international regulations and laws. ACC indicated that staff overstated the consistency with other regulations, some of which apply only to mouthable toys, while NRDC et al. commented that the analysis was correct. Staff's response notes that commenters did not provide new information on this subject, or how it would impact the costs of toys, and that the CBA did not claim the final rule was identical to regulations in other states and countries, but rather, that the rule was largely consistent.

• NRDC et al. stated in their view, that CPSC did not need to conduct a cost-benefit analysis, because the CPSIA's requirement that the final rule provides a ''reasonable certainty of no harm . . . with an adequate margin of safety,'' made no mention that cost should be a criterion. Staff's response notes that the court's decision found that the agency is required to conduct a cost-benefit analysis for the final rule regarding whether to continue the interim prohibition on DINP.

Benefits Issues

Below are brief descriptions of the in-scope comments that were submitted on the benefits analysis in the CBA, and staff's responses.

• Two commenters, NRDC et al. and Harding, found the analysis of benefits generally persuasive. Two commenters, ACC and Maranda, found the estimates

[1] Section 108(b)(2)(iii) of the CPSIA directed the CHAP to ''examine the likely levels of children's, pregnant women's, and others' exposure to phthalates . . .''

generally unpersuasive. Staff's response notes that no commenter provided new data on benefits that was within the scope of consideration, such as different data about the medical costs of treating Testicular Dysgenesis Syndrome (TDS) and explained how the CBA addressed the commenters' concerns.

• ACC commented that the CPSC should have used different data and models to estimate benefits and that the CHAP report was ''dated'' and should not have been used as the basis for the CBA; nor should CPSC have used the 2013–14 National Human Health and Nutrition Survey (NHANES) data when more recent 2017–18 data are available. NRDC et al. pointed out that the court stated that the CPSC's decision to use the 2013–14 data, and to protect the 99th percentile from harm, is consistent with CPSC's mandate to ''ensure a reasonable certainty of no harm.'' 15 U.S.C. 2057c(b)(3)(A). Staff's response notes that CPSC based its benefits estimate on the CHAP as required by the CPSIA, and on the data available at the time of the final rule. Staff asserts that data on phthalate exposure after the rule was published are not relevant to the rule's analysis of harm caused by the phthalate exposure, as noted above. The CHAP focused on TDS as the toxicity endpoint for phthalate exposure; therefore, the benefits analysis focused on the benefits of reducing the incidence of TDS. The CBA discusses in detail other peer-reviewed literature that quantified the harm of other toxicity endpoints for phthalate exposure.

• NRDC et al. agreed with staff that reduced cases of TDS are the ''essential benefit'' of making the interim prohibition permanent; thus, it was appropriate that the CBA benefits section focuses on the estimated cost per case of TDS and the costs to society of TDS caused by phthalate exposure from children's toys that can be placed in a child's mouth and child care articles. ACC noted that the CBA referenced various peer-reviewed journal articles that discussed other potential adverse health effects, in addition to TDS, from phthalate exposure. ACC urged CPSC to quantify these effects, rather than allegedly just suggest that these unquantified impacts provide further evidence that the benefits exceed the costs of the final rule. Commenter Harding found the exposure data used to justify the final rule was ''weak and insufficient,'' but also noted that ''the rule would significantly decrease the exposure of medically vulnerable people like children and pregnant women to the dangerous phthalate without impacting the economy.'' Commenter Maranda stated: ''because the evidence found is not substantial enough the Commission should reject this proposed rule,'' and further asserted that ''the CHAP has proven DINP to be safe again and again.'' Staff's response notes that none of the comments presented new, in-scope data that are relevant to the estimated benefits of the final rule, such as a quantitative estimate of the contribution of DINP to the cumulative impact of other endocrine-disrupting chemicals, a quantitative estimate of other negative health impacts of DINP exposure, the number of cases of TDS caused by DINP exposure, or different estimates of the cost per case. Staff disagrees with Maranda's assertion that the CHAP found DINP to be ''safe.''

• NRDC et al. commented that although the CBA discussed disparate impacts in the benefits analysis, CPSC should ''explicitly consider the environmental justice benefits of addressing these historic and continuing disproportionate impacts when weighing the benefits and costs of continuing the DINP ban.'' Staff's response notes that the commenter did not provide additional data to analyze environmental justice benefits but noted in the CBA that phthalate exposures appear to be higher in infants, children, and women from Black, non-Hispanic populations, and populations living in poverty than persons in other groups, and therefore, the rule may disproportionately benefit persons from vulnerable populations. Staff also notes that the regulation offers the same protection from DINP exposure from new toys and child care articles to all consumers, and there are no exceptions to the rule for small suppliers or for inexpensive items.

• ACC commented that the primary exposure to DINP from toys and childcare articles may be from exposure to phthalates in household dust, rather than through mouthing, and that the CBA should have analyzed the benefits from reducing this type of exposure. Staff's response notes that the CBA based the analysis of benefits on the findings of the CHAP and that the CHAP did analyze household dust as a source of phthalate exposure for women, infants, and children.

C. Out-of-Scope Comments

The Commission's March 2022 **Federal Register** notice stated that only comments submitted regarding the rationale for the final rule and/or the cost-benefit analysis of continuing the DINP interim prohibition will be considered, and that comments submitted on any other issues are out of scope and will not be considered. Staff's memorandum notes that most of the issues raised by commenters did not address the rationale used to justify the final rule, or they repeated comments that were previously submitted on the proposed rule and considered and addressed at that time. Similarly, the comments on the staff CBA either raised information that staff included in the CBA or suggested that the CBA should have considered out-of-scope issues other than costs of compliance with a continued prohibition on DINP or the associated benefits to consumers, such as the rule's impact on foreign companies that deliberately violate it. More specific responses to out-of-scope comments can be found in the memorandum ''Staff Responses to Request for Comments on Final Rule: 16 CFR part 1307 ''Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates''' available at *https://www.cpsc.gov/s3fs-public/Staff-Responses-to-Request-for-Comments-on-Final-Rule-16-CFR-Part-1307-Prohibition-of-Childrens-Toys-and-Child-Care-Articles-Containing-Specified-Phthalates.pdf?VersionId=RWiDEFGrye2fjlalXFSayKafroEj4C7l.*

III. Commission Finding Regarding Need for Further Rulemaking

The court's remand directed that: ''The Commission must allow industry to comment and consider the new justification for the Final Rule. Further, it must consider the costs of continuing Congress's interim prohibition on DINP to determine whether the rule is 'reasonably necessary' to protect from harm.'' *Tex. Ass'n. of Mfrs.,* 989 F.3d at 389–90.

CPSC has taken the following actions in response to the court's remand. CPSC staff drafted a CBA regarding continuing the interim prohibition on DINP. In March 2022, the Commission published a **Federal Register** notice requesting public comment regarding the change in the primary justification from the proposed rule to the final rule, and on staff's CBA assessing a continuation of the interim prohibition on DINP. The Commission is publishing this document to provide public notice of the availability of staff's response to comments and the Commission's finding that further rulemaking is not necessary.[2]

The March 2022 notice specifically stated comments were being solicited on only the two specific issues remanded by the court, and that ''Comments submitted on any other issues are out of scope and will not be considered.'' 87

[2] The Commission voted 4–0 to approve publication of this notice.

FR at 16636. The Commission adheres to the path charted by the court, considering only the specific issues raised in the court's remand. Therefore, comments that raise issues beyond the scope of the remand are rejected as being outside the scope of this proceeding.[3]

As described in Section II of this document, staff considered and responded to the comments received in response to the March 2022 public notice. The Commission has considered the comments submitted in response to the March 2022 notice and the CPSC staff's assessment of those comments and does not find any of the comments submitted to be persuasive such that it would justify a change to the phthalates final rule. Therefore, the Commission determines that no further rulemaking activity to revise the phthalates final rule is warranted. Having considered the issues identified by the court on remand, and the record generated in response to the court's remand, the Commission considers the matter concluded.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–25811 Filed 12–2–22; 8:45 am]

BILLING CODE 6355–01–P

[3] Staff nevertheless provided substantive responses to many of the out-of-scope comments, which the Commission adopts to the extent the comments might be deemed relevant.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–10381–01–R5]

Availability of Federally-Enforceable State Implementation Plans for All States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of availability.

SUMMARY: Section 110(h) of the Clean Air Act (CAA), as amended in 1990, requires EPA to assemble the requirements of the federally-enforceable State Implementation Plans (SIPs) in each State and to provide notification in the **Federal Register** of the availability of such documents every three years. This document fulfills the three-year requirement of making these SIP compilations for each State available to the public. This document also addresses EPA's obligation under a consent decree which required EPA to assemble and publish online the SIP rules that have been approved by EPA as of August 31, 2022.

DATES: Effective December 5, 2022.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for specific regional addresses and contacts.

FOR FURTHER INFORMATION CONTACT: Christos Panos, EPA, Air and Radiation Division (AR–18J), Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. How can I comment or obtain more information on plans where I live?

You may contact the appropriate EPA Regional Office regarding the requirements of the applicable implementation plans for each State in that region. The list below identifies the appropriate regional office for each state. The SIP compilations are available for public inspection during normal business hours at the appropriate EPA Regional Office. If you want to view these documents, you should make an appointment with the appropriate EPA office and arrange to review the SIP at a mutually agreeable time.

Region 1: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Regional Contact: Ariel Garcia (617/918–1660, *garcia.ariel@epa.gov*), EPA, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-1.*

Region 2: New Jersey, New York, Puerto Rico, and Virgin Islands.

Regional Contact: Linda Longo (212/637–3565, *longo.linda@epa.gov*), EPA, Air Programs Branch, 290 Broadway, New York, NY 10007–1866.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-2.*

Region 3: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Regional Contact: Gregory Becoat (215/814–2036, *becoat.gregory@epa.gov*), EPA, Office of Air and Radiation (3AD00), Four Penn Center 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103–2029.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-3.*

Region 4: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Regional Contact: Sarah LaRocca (404/562–8994, *larocca.sarah@epa.gov*), EPA Region 4, Air Planning Branch, Air Regulatory Management Section, 61 Forsyth Street SW, Atlanta, GA 30303–3104.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-4.*

Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Regional Contact: Christos Panos (312/353–8328, *panos.christos@epa.gov*), EPA, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, IL 60604–3507.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-5.*

Region 6: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Regional Contacts: Karolina Ruan-Lei (214/665–7346, *ruan-lei.karolina@epa.gov*), Adina Wiley (214/665–2115, *wiley.adina@epa.gov*) and Bill Deese (214/665–7253, *deese.william@epa.gov*), EPA, Air and Radiation Division, State Planning and Implementation Branch (R6 AR–SH), 1201 Elm Street, Suite 500, Dallas, TX 75270.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-6.*

Region 7: Iowa, Kansas, Missouri, and Nebraska.

Regional Contact: Sarah Watterson (913/551–7797, *watterson.sarah@epa.gov*), EPA, Air and Radiation Division, Air Quality & Planning Branch, 11201 Renner Blvd., Lenexa, KS 66219.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-7.*

Region 8: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Regional Contact: Aaron Zull (303–312–6157, *zull.aaron@epa.gov*), EPA, Air and Radiation Division, Air Quality Planning Branch, 1595 Wynkoop Street, Denver, CO 80202–1129.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-8.*

Region 9: Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

Regional Contacts: Kevin Gong (415/972–3073, *gong.kevin@epa.gov*) and Doris Lo (415/972–3959, *lo.doris@epa.gov*), EPA, Air and Radiation Division, Rules Office, (AIR–3–2), 75

Hawthorne Street, San Francisco, CA 94105.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-9.*

Region 10: Alaska, Idaho, Oregon, and Washington.

Regional Contact: Randall Ruddick (206/553–1999, *ruddick.randall@epa.gov*), EPA Region 10, Air and Radiation Division (15–H13), 1200 Sixth Avenue, Suite 155, Seattle, WA 98101.

See also: *https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-10.*

II. What is the basis for this document?

Section 110(h)(1) of the CAA mandates that not later than 5 years after the date of enactment of the CAA Amendments of 1990, and every three years thereafter, the Administrator shall assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the **Federal Register** of the availability of such documents.

Section 110(h) recognizes the fluidity of a given State SIP. The SIP is a living document which can be revised by the State to address its unique air pollution problems. The CAA requires EPA to take action on any revisions to the SIP, including those containing new and or/revised regulations. *See* CAA section 110(k). On May 31, 1972 (37 FR 10842), EPA approved, with certain exceptions, the initial SIPs for 50 states, four territories and the District of Columbia. [Note: EPA approved an additional SIP—for the Northern Mariana Islands—on November 10, 1986 (51 FR 40799)]. Since 1972, each State and territory has submitted numerous SIP revisions, either on their own initiative, or because they were required to under the CAA. This notice of availability informs the public that the SIP compilation has been updated to include the most recent requirements approved into the SIP. These approved requirements are federally-enforceable.

This document also addresses EPA's obligation under a consent decree in *Our Children's Earth Foundation* v. *Regan,* No. 4:20–cv–08530–YGR (N.D. Cal December 13, 2021), which established deadlines for EPA to publish online, the regulations, ordinances, and statutes and source specific permits or requirements approved by EPA and incorporated by reference in the Code of Federal Regulations.

III. Background

A. Relationship of National Ambient Air Quality Standards (NAAQS) to SIPs

EPA has established primary and secondary NAAQS for six criteria pollutants, which are widespread common pollutants known to be harmful to human health and welfare. The criteria pollutants are carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. See 40 CFR part 50 for a technical description of how the levels of these standards are measured and attained. See also *https://www.epa.gov/criteria-air-pollutants.* SIPs provide for implementation, maintenance, and enforcement of the NAAQS in each state. Areas within each state that are designated nonattainment are subject to additional planning and control requirements. Accordingly, different regulations or programs in the SIP will apply to different areas. EPA lists the designation of each area at 40 CFR part 81.

B. What is a SIP?

The SIP is a plan for each State that provide for implementation, maintenance, and enforcement of the NAAQS. The SIP also identifies how that State will attain and/or maintain the primary and secondary NAAQS set forth in section 109 of the CAA and 40 CFR 50.4 through 50.13 and 50.15 through 50.17 and which includes federally-enforceable requirements. Each State is required to have a SIP which contains control measures and strategies which demonstrate how each area will attain and maintain the NAAQS. These plans are developed through a public process, formally adopted by the State, and submitted by the Governor's designee to EPA. The CAA requires EPA to review each plan and any plan revisions and to approve the plan or plan revisions if consistent with the CAA.

SIP requirements applicable to all areas are provided in section 110. Part D of title I of the CAA specifies additional requirements applicable to nonattainment areas. Section 110 and part D describe the elements of a SIP and include, among other things, emission inventories, a monitoring network, an air quality analysis, modeling, attainment demonstrations, enforcement mechanisms, and regulations which have been adopted by the State to attain or maintain NAAQS. EPA has adopted regulatory requirements which spell out the procedures for preparing, adopting and submitting SIPs and SIP revisions; these are codified in 40 CFR part 51.

EPA's action on each State's SIP is promulgated in 40 CFR part 52. The first section in the subpart in 40 CFR part 52 for each State is generally the ''Identification of plan'' section which provides chronological development of the State SIP. Alternatively, if the state has undergone the revised Incorporation by Reference formatting process (see 62 FR 27968; May 22, 1997), the identification of plan section identifies the State-submitted rules and plan elements that have been federally approved. The goal of the State-by-State SIP compilation is to identify those rules under the ''Identification of plan'' section which are currently federally-enforceable. In addition, some of the SIP compilations may include control strategies, such as transportation control measures, local ordinances, State statutes, and emission inventories. Some of the SIP compilations may not identify these other federally-enforceable elements.

The contents of a typical SIP fall into three categories: (1) State-adopted control measures which consists of either rules/regulations or source-specific requirements (*e.g.,* orders and consent decrees); (2) State-submitted ''non-regulatory'' components (*e.g.,* attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.); and (3) additional requirements promulgated by EPA (in the absence of a commensurate State provision) to satisfy a mandatory section 110 or part D (CAA) requirement.

C. What does it mean to be federally-enforceable?

Enforcement of the state regulation before and after it is incorporated into the federally-approved SIP is primarily a state responsibility. However, after the regulation is federally approved, EPA is authorized to take enforcement action against violators. Citizens also have legal recourse to address violations as described in section 304 of the CAA.

When States submit their most current State regulations for inclusion into federally-enforceable SIPs, EPA begins its review as soon as possible. Until EPA approves a submittal by rulemaking action, State-submitted regulations will be State-enforceable only. Therefore, State-enforceable SIPs may exist that differ from federally-enforceable SIPs. As EPA approves these State-submitted regulations, the regional offices will continue to update the SIP compilations to include these applicable requirements.

IV. What are the documents and materials associated with the SIP?

In addition to state regulations that provide for air pollution control, SIPs include EPA-approved non-regulatory elements (such as transportation control measures, local ordinances, state statutes, modeling demonstrations, and emission inventories). Both the state regulations and non-regulatory elements must have gone through the state rulemaking process with the opportunity for public comment. After these SIPs had been fully adopted by the State and submitted to EPA, EPA took rulemaking action on SIPs, and those which have been EPA-approved or conditionally approved are listed along with any limitations on their approval. Examples of EPA-approved documents and materials associated with the SIP include, but are not limited to: SIP Narratives; Particulate Matter Plans; Carbon Monoxide Plans; Ozone Plans; Maintenance plans; Vehicle Inspection and Maintenance (I/M) SIPs; Emissions Inventories; Monitoring Networks; State Statutes submitted for the purposes of demonstrating legal authority; Part D nonattainment area plans; Attainment demonstrations; Transportation control measures (TCMs); Committal measures; Contingency Measures; Non-regulatory and Non-TCM Control Measures; 15% Rate of Progress Plans; Emergency episode plans; and Visibility plans. As stated above, the ''non-regulatory'' documents are available for public inspection at the appropriate EPA Regional Office.

V. What is being made available under this document?

This document announces that the federally-enforceable SIP for each State is available for review and public inspection at the appropriate EPA regional office and identifies the contact person for each regional office.

The federally-enforceable SIP contains both regulatory requirements and non-regulatory items such as plans and emission inventories. Regulatory requirements include State-adopted rules and regulations, source-specific requirements reflected in consent orders, and in some cases, provisions in the enabling statutes.

Following the 1990 CAA Amendments, the first section 110(h) SIP compilation availability notice was published on November 1, 1995 (61 FR 55459). At that time, EPA announced that the SIP compilations, comprised of the regulatory portion of each State SIP, were available at the EPA Regional Office serving that particular State. In general, the compilations made available in 1995 did not include the source-specific requirements or other documents and materials associated with the SIP. With the second notice of availability in 1998, the source-specific requirements and the ''non-regulatory'' documents [*e.g.,* attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.] were made available for the first time. These documents will remain available for public inspection at the respective regional office listed in the **ADDRESSES** section above. If you want to view these documents, please contact the appropriate EPA Regional Office and arrange for a mutually agreeable time.

Michael Regan,

Administrator.

[FR Doc. 2022–26307 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0651; FRL–10268–02–R9]

Air Plan Approval; California; Eastern Kern Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Eastern Kern Air Pollution Control District (EKAPCD or ''the District'') portion of the California State Implementation Plan (SIP). In this action, we are approving one rule submitted by the EKAPCD, governing the issuance of permits for stationary sources, focusing on the preconstruction review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or ''the Act'').

DATES: This rule is effective on February 3, 2023 without further notice, unless the EPA receives adverse comment by January 4, 2023. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0651 at *https://www.regulations.gov,* or via email to *R9AirPermits@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI and multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Po-Chieh Ting, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3191, or by email at *ting.pochieh@epa.gov.*

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

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this action including the dates on which it was adopted by the District and submitted to the EPA by the California

Air Resources Board (CARB or ''the State'').

TABLE 1—SUBMITTED RULE

Rule No.	Rule title	Adopted	Submitted [1]
Rule 210.1A	Major New and Modified Stationary Source Review (MNSR)	8/4/22	10/5/22

[1] The submittal was transmitted to the EPA via a letter from CARB dated October 5, 2022.

CARB's October 5, 2022 SIP submittal package meets the completeness criteria in 40 CFR part 51, which must be met before formal EPA review. The EPA's signed notice of proposed rulemaking for our action on this submittal serves as the EPA's formal completeness determination for this submittal.[2]

B. Are there other versions of this rule?

There is no previous version of EKAPCD Rule 210.1A in the California SIP. There are other new source review (NSR) rules in the California SIP that apply to the sources to which EKAPCD Rule 210.1A applies, including Rule 210.1, ''Standard for Authority to Construct''. Rule 210.1A is intended to satisfy current Federal nonattainment NSR requirements applicable to ozone and PM_{10} and related visibility program requirements. Other existing SIP-approved NSR rules such as the SIP-approved version of Rule 210.1 will remain in the SIP for the EKAPCD. Rule 210.1A provides that for purposes of its implementation and enforcement, its provisions take precedence over the provisions and requirements in other District rules and regulations (see Subsection I.B, paragraph 2 of Rule 210.1A).

C. What is the purpose of the submitted rule?

Rule 210.1A is intended to address the CAA's statutory and regulatory requirements for nonattainment new source review (NNSR) permit programs for major sources emitting nonattainment air pollutants and their precursors located in the areas within the EKAPCD that are designated nonattainment for one or more National Ambient Air Quality Standards (NAAQS).

II. The EPA's Evaluation

A. What is the background for this action?

Because parts of the eastern portion of Kern County (Eastern Kern) are Federal ozone and PM_{10} nonattainment areas, the CAA requires the District to have a SIP-approved NNSR program for new and modified major sources located in the ozone and PM_{10} nonattainment areas that are under its jurisdiction. Most recently, the designation of the Eastern Kern area as a Federal ozone nonattainment area for the 2008 and 2015 ozone NAAQS triggered the requirement for the District to develop and submit an updated NNSR program to the EPA for SIP approval. The District's NNSR program must address NNSR requirements for the 1997 ozone NAAQS, the 2008 ozone NAAQS, the 2015 ozone NAAQS, and the 1987 $p.m._{10}$ NAAQS.[3]

Because the District is designated and classified as Severe nonattainment for the 2008 8-hour ozone NAAQS, the District's NNSR program must satisfy the NNSR requirements applicable to Severe ozone nonattainment areas. Submission of an NNSR program that satisfies the requirements of the Act and the EPA's regulations for Severe ozone nonattainment areas would also satisfy the NNSR program requirements for lower classifications including the Serious and Moderate NNSR program requirements applicable to the District based on its designation and classification for the 2015 and 1997 8-hour ozone NAAQS, respectively. The District's NNSR program must also satisfy the NNSR requirements applicable to Serious PM_{10} nonattainment areas.[4]

In addition, to implement CAA section 169A, 40 CFR 51.307(b) requires that NNSR programs provide for review of any major stationary source or major modification that may have an impact on visibility in any mandatory Class I Federal area.[5]

B. How is the EPA evaluating the rule?

The EPA reviewed Rule 210.1A for compliance with CAA requirements for: (1) stationary source preconstruction permitting programs as set forth in CAA part D, including CAA sections 110(a)(2)(C), 172(c)(5), 173, 182, and 189; (2) the review and modification of major sources in accordance with 40 CFR 51.160–51.165 as applicable in Severe ozone and Serious PM_{10} nonattainment areas; (3) the review of new major stationary sources or major modifications in a designated nonattainment area that may have an impact on visibility in any mandatory Class I Federal area in accordance with 40 CFR 51.307; (4) SIPs in general as set forth in CAA sections 110(a)(2), including 110(a)(2)(A) and 110(a)(2)(E)(i);[6] and (5) SIP revisions as set forth in CAA section 110(l)[7] and 193.[8] Our review evaluated the

[2] CARB's May 23, 2018 submittal of a previous version of EKAPCD Rule 210.1A, which was determined to be complete on August 28, 2018, addressed the findings of failure to submit issued by the EPA on February 3, 2017 and December 11, 2017 for the 2008 ozone national ambient air quality standard (NAAQS) regarding nonattainment new source review (NNSR) program requirements for the District (82 FR 9158, 82 FR 58118). That finding of completeness represented the EPA's determination that the deficiencies that formed the basis for the findings of failure to submit for the 2008 ozone NAAQS had been corrected, and as a result, the related application of the offset sanction and the running of the highway sanction clock were permanently stopped. See 40 CFR 52.31(d)(5).

[3] The relevant nonattainment designation and classification history for the area is provided in our Technical Support Document, which can be found in the docket for this rule.

[4] We are not currently evaluating whether Rule 210.1A would satisfy the Federal requirements for NNSR programs for areas with a higher ozone nonattainment classification, nor are we evaluating whether this rule would satisfy the Federal requirements for NNSR programs applicable to areas designated nonattainment for other NAAQS pollutants. If, in the future, the District were to be designated nonattainment for a NAAQS pollutant other than ozone and PM_{10}, the requirements of 40 CFR part 51, Appendix S would govern NNSR permitting for that pollutant upon the effective date of such designation for purposes of the CAA.

[5] Such sources are required to perform a visibility impact analysis consistent with the provisions of 40 CFR 51.307(a) and 40 CFR 51.166 (o), (p)(1) through (2) and (q). See 40 CFR 51.307(c). 40 CFR 51.307(d) also provides for states to require monitoring of visibility in any Federal Class I area near the proposed new major stationary source or major modification.

[6] CAA section 110(a)(2)(A) requires that regulations submitted to the EPA for SIP approval be clear and legally enforceable, and CAA section 110(a)(2)(E)(i) requires that states have adequate personnel, funding, and authority under State law to carry out their proposed SIP revisions.

[7] CAA section 110(l) requires SIP revisions to be subject to reasonable notice and public hearing prior to adoption and submittal by states to the EPA and prohibits the EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

[8] CAA section 193 prohibits the modification of any SIP-approved control requirement in effect before November 15, 1990 in a nonattainment area, unless the modification ensures equivalent or

Continued

submittal for compliance with the NNSR requirements applicable to nonattainment areas designated Severe for ozone and Serious for PM_{10}, and ensured that the submittal addressed the NNSR requirements for the 1997, 2008 and 2015 ozone NAAQS as well as the 1987 PM_{10} NAAQS.

C. Does the rule meet the evaluation criteria?

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. Based on our review of the public process documentation included in the October 5, 2022 submittal of Rule 210.1A, we find that the District has provided sufficient evidence of public notice, opportunity for comment and a public hearing prior to adoption and submittal of the rule to the EPA.

With respect to the substantive requirements found in CAA sections 110(a)(2)(C), 172(c)(5), 173, 182, 189 and 40 CFR 51.160–51.165, we have evaluated Rule 210.1A in accordance with the applicable CAA and regulatory requirements that apply to NNSR permit programs under part D of title I of the Act for all relevant NAAQS, including the 1997, 2008 and 2015 ozone NAAQS as well as the 1987 p.m.$_{10}$ NAAQS. We find that Rule 210.1A satisfies these requirements as it applies to sources subject to NNSR permit program requirements for ozone nonattainment areas classified as Severe [9] and for PM_{10} nonattainment areas classified as Serious. We have also determined that this rule satisfies the related visibility requirements in 40 CFR 51.307. In addition, we have determined that Rule 210.1A satisfies the requirement in CAA section 110(a)(2)(A) that regulations submitted to the EPA for SIP approval be clear and legally enforceable and have determined in accordance with CAA section 110(a)(2)(E)(i) that the District has adequate personnel, funding, and authority under State law to carry out these SIP revisions.

Regarding the additional substantive requirements of CAA sections 110(l) and 193, our action will result in a more stringent SIP, while not relaxing any existing provision contained in the SIP. We have concluded that our action would comply with section 110(l) because our approval of Rule 210.1A will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other CAA applicable requirement. In addition, our approval of Rule 210.1A will not relax any pre-November 15, 1990 requirement in the SIP, and therefore changes to the SIP resulting from this action ensure greater or equivalent emission reductions of the nonattainment pollutants and their precursors in the District; accordingly, we have concluded that our action is consistent with the requirements of CAA section 193.

Our Technical Support Document, which can be found in the docket for this rule, contains a more detailed discussion of our analysis of Rule 210.1A.

D. What action is the EPA finalizing?

As authorized in section 110(k)(3) of the Act, the EPA is approving the submitted rule because we believe it fulfills all relevant requirements. We have concluded that our approval of the submitted rule would comply with the relevant provisions of CAA sections 110(a)(2), 110(l), 172(c)(5), 173, 182, 189 and 193, 40 CFR 51.160–51.165, and 40 CFR 51.307. Our action will be codified through revisions to 40 CFR 52.220a (Identification of plan—in part). In conjunction with the EPA's SIP approval of the District's visibility provisions for sources subject to the NNSR program as meeting the relevant requirements of 40 CFR 51.307, this action also revises the regulatory provision at 40 CFR 52.281(d) concerning the applicability of the visibility Federal Implementation Plan (FIP) at 40 CFR 52.28 as it pertains to California, to provide that this FIP does not apply to sources subject to review under the District's SIP-approved NNSR program.

III. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and we anticipate no adverse comment as the submitted rule fulfills all applicable regulatory requirements and is generally consistent with very similar NNSR rules that the EPA has approved into the California SIP recently for other California air districts, for which the EPA received no public comments. However, in the ''Proposed Rules'' section of this issue of the **Federal Register**, we are publishing a separate document that will serve as the EPA's proposed rule to approve the rule submitted by the EKAPCD if adverse comment is received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

If we do not receive timely adverse comment, the direct final approval will be effective without further notice on February 3, 2023, as discussed above. This will incorporate the rule into the federally enforceable SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of EKAPCD Rule 210.1A, Major New and Modified Stationary Source Review (MNSR), adopted on August 4, 2022, which regulates the issuance of permits for stationary sources. The EPA has made, and will continue to make, this document available electronically through *https://www.regulations.gov* and in hard copy at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory

greater emission reductions of the relevant pollutants.

[9] As discussed above, an NNSR program that satisfies the requirements of the Act and the EPA's regulations for Severe ozone nonattainment areas also satisfies the NNSR program requirements for lower classifications, including the Serious and Moderate NNSR program requirements applicable to the District based on its designation and classification for the 2015 and 1997 8-hour ozone NAAQS, respectively.

action because SIP approvals are exempted under Executive Order 12866;

• 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); and

• 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.

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 3, 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 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, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 28, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(590) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(590) The following new regulation was submitted on October 5, 2022 by the Governor's designee as an attachment to a letter dated October 5, 2022.

(i) *Incorporation by reference.* (A) Eastern Kern Air Pollution Control District.

(*1*) Rule 210.1A, Major New and Modified Stationary Source Review (MNSR), adopted on August 4, 2022.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

* * * * *

■ 3. Section 52.281 is amended by revising paragraphs (d)(1) through (6) and adding paragraph (d)(7) to read as follows:

§ 52.281 Visibility protection.

* * * * *

(d) * * *

(1) Monterey County Air Pollution Control District.

(2) Sacramento County Air Pollution Control District.

(3) Calaveras County Air Pollution Control District.

(4) Mariposa County Air Pollution Control District.

(5) Northern Sierra Air Pollution Control District.

(6) San Diego County Air Pollution Control District.

(7) Eastern Kern Air Pollution Control District.

* * * * *

[FR Doc. 2022–26361 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[EPA–R10–OAR–2022–0374; FRL–9881–02–R10]

National Emissions Standards for Hazardous Air Pollutants; Delegation of Authority to Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a delegation request submitted by the Washington State Department of Health (WDOH) for full delegation of authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants for radionuclide air emissions.

DATES: This final rule is effective January 4, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2022–0374. 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 or other information the disclosure of which 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 at *https://www.regulations.gov,* or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jim McAuley, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–1987 or *mcauley.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Final Action
III. Statutory and Executive Order Reviews

I. Background

Effective July 5, 2006, the EPA granted WDOH partial approval and delegation to implement and enforce the radionuclides National Emission Standards for Hazardous Air Pollutants in the State of Washington, specifically, 40 CFR part 61, subparts A, B, H, I, K, Q, R, T, and W (Radionuclides NESHAPs) as in effect on July 1, 2004 (71 FR 32276, June 5, 2006). The EPA granted WDOH partial rather than full approval and delegation of the Radionuclides NESHAPs because WDOH did not at that time have express authority to recover criminal fines for certain actions, as required by 40 CFR 70.11(a)(3)(iii) and 40 CFR 63.91(d)(3)(i)(A). The EPA also approved a streamlined mechanism by which WDOH could receive partial approval and delegation of newly promulgated or revised Radionuclides NESHAPs as provided in 40 CFR 63.91(a)(1) and (d)(2).

On February 3, 2012, WDOH submitted a request for full approval and delegation of the Radionuclides NESHAPs and submitted updates to its request in letters dated April 10, 2017, August 11, 2017, September 18, 2017, and February 25, 2022.

The EPA proposed to approve WDOH's request for full delegation of the Radionuclides NESHAP on July 21, 2022 (87 FR 43464). The reasons for proposed approval are included in the proposed action and will not be restated here. The public comment period for the proposed action closed on August 22, 2022, and we received two comments. Both commenters supported the EPA's decision to grant full delegation of authority to implement and enforce the Radionuclide NESHAPs to WDOH in Washington State. One commenter stated that the delegation authorizes WDOH to make ''minor changes to this rule.'' The EPA notes that the authority to make minor changes is limited to those changes discussed in the July 21, 2022, proposal (87 FR 43464 at page 43465) and described in Section II of this preamble. The second commenter noted that WDOH will be able to streamline further delegations through letter of approvals resulting in efficiencies between the agencies. As discussed in the proposal, this action includes approval of a streamlined mechanism by which WDOH may receive partial approval and delegation of newly promulgated or revised Radionuclides NESHAPs as provided in 40 CFR 63.91(a)(1) and (d)(2).

II. Final Action

A. Authorities Included From This Approval and Delegation

Except as provided in Section II.B of this preamble, the EPA is granting WDOH full approval and delegation of authority to implement and enforce the Radionuclides NESHAPs as in effect on July 1, 2021. Included in this full approval and delegation of the Radionuclide NESHAPs is the authority to approve: (1) ''Minor changes to monitoring'' [1] including the use of the specified monitoring requirements and procedures with minor changes in methodology as described in 40 CFR 61.14(g)(1)(i); (2) ''Intermediate changes to monitoring;'' (3) ''Minor changes to recordkeeping/reporting;'' (4) ''Minor changes in test methods,'' including the use of a reference method with minor changes in methodology as described in 40 CFR 61.13(h)(1)(i); and (5) waiver of the requirement for emission testing because the owner or operator of a source has demonstrated by other means to WDOH's satisfaction that the source is in compliance with the standard as described in 40 CFR 61.13(h)(1)(iii). Any authorities not addressed in Section II.B. of this preamble and not identified in any delegated subpart of the Radionuclides NESHAPs, including 40 CFR part 61, subpart A, as authorities that cannot be delegated shall be considered delegated. See 67 FR 3106, at page 3109, footnote 3 (January 23, 2002).

B. Authorities Excluded From This Approval and Delegation

The EPA is not delegating to WDOH authorities under 40 CFR part 61 that specifically indicate they cannot be delegated, that require rulemaking to implement, that affect the stringency of the standard, equivalency determinations, or where national oversight is the only way to ensure national consistency. The following Table 1 identifies specific authorities within 40 CFR part 61, subparts A, B, H, I, K, Q, R, T, and W, that the EPA is excluding from this delegation.

TABLE 1—PART 61 AUTHORITIES EXCLUDED FROM APPROVAL AND DELEGATION

Section	Authorities
61.04(b)	Waiver of recordkeeping.
61.04(c)	Delegations to state and local agencies.
61.05(c)	Waivers/exemptions.
61.11	Waiver of compliance.
61.12(d)	Approval of alternative means of emission limitation.
61.13(h)(1)(ii)	Approval of alternatives to test methods (except as provided in 40 CFR 61.13(h)(1)(i)).
61.14(d)	Combined effluents.
61.14(g)(1)(ii)	Approval of alternatives to monitoring that do not qualify as ''Minor changes to monitoring,'' ''Intermediate changes to monitoring,'' or ''Minor changes to recordkeeping/reporting'' [2]
61.16	Availability of information.
61.23(b)	Subpart B—Radon Emissions from Underground Uranium Mines Alternative; compliance demonstration to COMPLY–R.
61.93(b)(2)(iii), (c)(2)(iii)	Subpart H—Emissions of Radionuclides Other than Radon from DOE Facilities.
61.107(b)(2)(iii), (d)(2)(iii)	Subpart I—Radionuclide Emissions from Federal Facilities Other than NRC Licensees and Not Covered by Subpart H.

[1] For purposes of this paragraph, the terms in quotations have the meaning assigned to them in 40 CFR 63.90.

[2] For purposes of this Table 1, the terms in quotations have the meaning assigned to them in 40 CFR 63.90.

TABLE 1—PART 61 AUTHORITIES EXCLUDED FROM APPROVAL AND DELEGATION—Continued

Section	Authorities
61.125(a)	Subpart K—Radionuclide Emissions from Elemental Phosphorus Plants.
61.206(c), (d), and (e)	Subpart R—Radon Emission from Phosphogypsum Stacks.

C. Other Implications of This Action

Under this full delegation and approval:

1. Sources in Washington subject to the delegated Radionuclides NESHAPs should continue to direct questions and compliance issues to WDOH except with respect to those authorities that are not delegated (those noted in Section II.B. of this preamble). For those authorities noted in Section II.B. of this preamble, affected sources should continue to work with the EPA as their primary contact and submit materials directly to the EPA, copying WDOH on all submittals, questions, and requests.

2. Sources subject to the Radionuclides NESHAPs continue to be required to send required notifications, reports and requests to WDOH for WDOH's action and to provide copies to the EPA. For authorities that are excluded from this delegation (see Section II.B. of this preamble), sources should continue to send required notifications, reports, and requests to the EPA and to provide copies to WDOH.

3. Any records or reports provided to or otherwise obtained by WDOH relating to the Radionuclides NESHAPs should be made available to the EPA upon request. In accordance with 40 CFR 61.16 and 63.15, the availability to the public of information provided to or otherwise obtained by the EPA in connection with this delegation shall be governed by 40 CFR part 2. The EPA may request notifications and reports from owners/operators and/or WDOH.

4. WDOH must continue to maintain a record of all approved alternatives to all monitoring, testing, recordkeeping, and reporting requirements and provide this list of alternatives to the EPA at least semi-annually, or at a more frequent basis if requested by the EPA. The EPA may audit the WDOH-approved alternatives and disapprove any that it determines are inappropriate, after discussion with WDOH. If changes are disapproved, WDOH must notify the source that it must revert to the original applicable monitoring, testing, recordkeeping, and/or reporting requirements. Also, in cases where the source does not maintain the conditions which prompted the approval of the alternatives to the monitoring testing, recordkeeping, and/or reporting requirements, WDOH must require the source to revert to the original monitoring, testing, recordkeeping, and reporting requirements, or more stringent requirements, if justified.

5. WDOH shall require affected facilities to use the methods specified in 40 CFR part 61 in performing source tests pursuant to the regulations. See 40 CFR 61.7.

6. Enforcement of these delegated Radionuclides NESHAPs in WDOH's jurisdiction will be the primary responsibility of WDOH. Nevertheless, the EPA may exercise its concurrent enforcement authority pursuant to sections 112(l)(7) and 113 of the Clean Air Act (CAA) and 40 CFR 63.90(d)(2) with respect to sources which are subject to the Radionuclides NESHAPs.

7. Implementation and enforcement of the delegated NESHAP are subject to the *Environmental Performance Partnership Agreement* between the State of Washington and the EPA and its successor documents. The Agreement defines roles and responsibilities, including timely and appropriate enforcement response and the maintenance of ICIS-Air via the Exchange Network. WDOH will ensure that all relevant source notification and report information is entered as provided in the Agreement into the specified EPA database system to meet your recordkeeping/reporting requirements.

8. This full approval and delegation delegates to WDOH authority to implement and enforce the Radionuclides NESHAPs, as in effect on July 1, 2021. Radionuclides NESHAPs that that are promulgated or revised substantively after that date are not delegated to WDOH.

9. This approval and delegation does not extend to any additional State standards or requirements, including other State standards or requirements regulating radionuclide air emissions. Section 116 of the CAA provides that, with some exceptions not applicable here, nothing in the CAA precludes or denies the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of air pollutants or any requirement respecting control or abatement of air pollution so long as the State requirement is not less stringent than a standard or limitation in effect under an applicable implementation plan or under section 111 or 112 of the CAA. Washington State standards that are more stringent than the Radionuclides NESHAPs are enforceable as provided under State law, but are not enforceable under the CAA or in any way part of this full approval and delegation of the Radionuclides NESHAPs to WDOH.

10. WDOH may receive full approval and delegation of newly promulgated or revised Radionuclides NEHAPs by the following streamlined process: (1) WDOH will send a letter to the EPA requesting delegation for such new or revised Radionuclides NESHAPs which WDOH has adopted by reference into Washington regulations, reference its previous demonstration, and reaffirm that it still meets the criteria for any full approval and delegation of the NESHAPs; (2) the EPA will send a letter of response back to WDOH granting approval of the delegation request (or explaining why the EPA cannot grant the request), and publish notice of the EPA's approval in the **Federal Register**; (3) WDOH does not need to send a response back to the EPA.

11. Although WDOH is not obligated to request or receive future delegations of the Radionuclides NESHAPs, the EPA encourages WDOH, on an annual basis if the Federal standards have changed, to revise its rules to incorporate by reference newly promulgated or revised Radionuclides NESHAPs and request updated delegation of those standards.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to approve NESHAP delegation requests that comply with CAA section 112(l) and applicable Federal regulations. In reviewing NESHAP delegation requests, the EPA's role is to approve State choices, provided that they meet the criteria and objectives of the CAA and the EPA's implementing regulations. Accordingly, this final action would merely approve the State's request as meeting Federal requirements and does not impose additional requirements under the CAA 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practical and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This full approval and delegation of the Radionuclides NESHAPs does not apply to sources or activities located in Indian country, as defined in 18 U.S.C. 1151.[3] Consistent with previous Federal program approvals or delegations, the EPA will continue to implement the NESHAPs in Indian country in Washington because WDOH has not adequately demonstrated authority over sources and activities located within the exterior boundaries of Indian reservations and in other areas of Indian country. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The one exception is within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided State and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

This action is subject to the Congressional Review Act, 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).

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 February 3, 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 may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Intergovernmental relations, Radionuclides, Reporting and recordkeeping requirements.

Dated: November 29, 2022.

Casey Sixkiller,

Regional Administrator, Region 10.

[FR Doc. 2022–26343 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

[3] Under this definition, the EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 221129–0251]

RIN 0648–BK93

Fisheries Off West Coast States; Pacific Halibut Fisheries; Permitting and Management Regulations for Area 2A Pacific Halibut Fisheries

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

ACTION: Final rule.

SUMMARY: Under the authority of the Northern Pacific Halibut Act of 1982, this final rule implements a permitting system for the Pacific halibut commercial and recreational charter halibut fisheries in International Pacific Halibut Commission (IPHC) regulatory Area 2A (Washington, Oregon, and California). This action also establishes a regulatory framework for the Area 2A Pacific halibut directed commercial fishery that, consistent with the allocations and coastwide season dates set by the IPHC, allows NMFS to annually determine dates and times the fishery will be open and set harvest limits for those periods of time. These permitting and management activities for Area 2A were previously performed by the IPHC; through this final rule, NMFS will now implement these Area 2A-specific permitting and management activities.

DATES: This rule is effective on January 4, 2023.

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 501 W Ocean Boulevard, Suite 4200, Long Beach, CA 90802. For information regarding all halibut fisheries and general regulations not contained in this rule, contact the International Pacific Halibut Commission, 2320 W Commodore Way Suite 300, Seattle, WA 98199–1287.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, phone: 562–980–4034, fax: 562–980–4018, or email: *joshua.lindsay@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773–773k, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Halibut Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention, signed at Washington, DC, on March 29, 1979. The Halibut Act requires that the Secretary shall adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and Halibut Act (16 U.S.C. 773c). The Assistant Administrator for Fisheries, NOAA, on behalf of the IPHC, publishes annual management measures governing the U.S. Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State, with concurrence from the Secretary of Commerce. These management measures include, but are not limited to, coastwide and area-specific mortality limits (also known as

allocations and subarea allocations), coastwide season dates, gear restrictions, Pacific halibut size limits for retention, and logbook requirements. The IPHC apportions mortality limits for the Pacific halibut fishery among regulatory areas: Area 2A (Washington, Oregon, and California), Area 2B (British Columbia), Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (subdivided into 5 areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska). In addition to, and not in conflict with, approved IPHC regulations, as provided in the Halibut Act, the Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters (16 U.S.C. 773c(c)). The Pacific Fishery Management Council (Council) has exercised this authority by developing a catch sharing plan guiding the allocation of halibut and management of recreational (sport) fisheries for the IPHC's regulatory Area 2A. The Council's Catch Sharing Plan guides tribal, non-tribal commercial, and recreational halibut fishing off the U.S. west coast by prescribing an allocation formula for the allowable catch, and by describing the general season structure of the fisheries. Since 1988, NMFS has approved catch sharing plans and implemented annual regulations consistent with the catch sharing plans in the IPHC regulatory Area 2A. In 1995, NMFS approved a Council-recommended, long-term Catch Sharing Plan (60 FR 14651; March 20, 1995). The Council has recommended, and NMFS has approved adjustments to the Catch Sharing Plan each year after discussion at the September and November Council meetings to address the changing needs of these fisheries.

Prior to this action, the IPHC regulated and managed certain aspects of the commercial and recreational charter fisheries in Area 2A. The IPHC required vessels to obtain a license from the IPHC to participate in either the recreational charter fishery or the non-tribal commercial fishery for Pacific halibut in Area 2A. In the context of this rule, the term ''license'' is synonymous with ''permit.'' The IPHC also set management measures for the non-tribal directed commercial Pacific halibut fishery (directed commercial fishery) in Area 2A, including fishing periods and associated fishing period limits which were announced by the IPHC. The proposed rule for this action included additional background on past management practices of the IPHC and history of certain regulatory activities transitioning from IPHC to NMFS, including Council recommendations associated with this action. Those details are not repeated here. For additional information on this action, please refer to the proposed rule (87 FR 44318; July 26, 2022).

Under this action, NMFS is assuming responsibility for issuing vessel permits to fish for Pacific halibut in commercial and recreational charter fisheries in Area 2A, and for issuing annual management measures for the directed commercial fishery. Specifically, this action enables NMFS to issue permits for Area 2A vessels participating in the recreational charter fishery and three non-tribal commercial fisheries: a directed commercial fishery, incidental catch of Pacific halibut in the sablefish fishery, and incidental catch of Pacific halibut in the salmon troll fishery. This action also enables NMFS to set management measures for the non-tribal directed commercial Pacific halibut fishery (directed commercial fishery), including fishing periods and associated fishing period limits. A fishing period is the period of time during the annual halibut season set by the IPHC when fishing for Pacific halibut is allowed and may span multiple days. A fishing period limit is the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period, and each vessel may only retain Pacific halibut up to the fishing period limit for its vessel class. These actions are in addition to actions NMFS already undertakes, such as issuing annual management measures for the Area 2A recreational fisheries (applicable to both charter and private anglers), consistent with the recommendations from the Council and the framework in the Council's Catch Sharing Plan.

Permitting for Commercial and Recreational Charter Vessels

Prior to implementation of this rule, no person could fish for Pacific halibut from a vessel, nor possess Pacific halibut on board a vessel, used either for commercial fishing or as a recreational charter vessel in Area 2A, unless the IPHC issued a permit valid for fishing in Area 2A to that vessel. Under this final rule, NMFS maintains the requirement for vessels to obtain a permit to fish for Pacific halibut in Area 2A and implements a NMFS permitting process. Under this action, NMFS will use a web-based application with digital submission and delivery of the permit applications, and will allow participants to provide either digital or paper proof of permit upon request. NMFS is requiring that permit applications be received by the following dates: (1) March 1 for incidental catch during the salmon troll fishery; (2) March 1 for incidental catch during the sablefish fishery; (3) February 15 for the directed commercial fishery; and (4) 15 days prior to participation in the recreational fishery for recreational charter vessels.

NMFS notes that the permit application deadlines for the incidental salmon and sablefish fisheries are two weeks earlier than the deadlines previously required by the IPHC (prior to 2020, the incidental sablefish permit deadline was March 15), and are one month before the fisheries open on April 1. The deadline for the directed commercial fishery permit applications is more than two months earlier than the previous IPHC deadline for this fishery. The earlier application deadlines ensure adequate time for NMFS to issue permits in advance of the fishery season start dates and to consider the number of applications when determining fishing period limits for the directed commercial fishery. NMFS will issue permits for all applications submitted with the required information and by the applicable deadline under this action. NMFS is requiring application information in addition to what the IPHC required; specifically, those applying for directed commercial fishery permits must provide vessel length documentation from either the U.S. Coast Guard Documentation Form, state registration form, or a current marine survey. Fishery participants must obtain a new permit each year.

The Regional Administrator may charge fees to cover administrative expenses related to processing and issuance of permits, processing change in ownership or change in vessel registration, divestiture, and appeals of permits. The amount of the fee would be determined in accordance with the NOAA Finance Handbook available at (*https://www.corporateservices.noaa.gov/finance/documents/NOAAFinanceHBTOC_09.06.19.pdf*) and specified on the application form. The fee may not exceed the administrative costs and must be submitted with the application for the application to be considered complete.

Directed Commercial Fishery

The non-tribal directed commercial Pacific halibut fishery is prosecuted in the area south of Point Chehalis, WA (46°53.30′ N lat.). This fishery typically operates from late June through August, with fishing periods every other week until the Area 2A directed commercial

fishery allocation has been or is projected to be reached. Under this final action, NMFS, instead of the IPHC, will implement annual management measures for the directed commercial fishery. Specifically, NMFS will continue to manage the fishery through a series of fishing periods with fishing period limits based on the directed commercial fishery allocation determined by vessel class, and implement those directed commercial fishing period(s) and fishing period limits through proposed and final rules published annually in the **Federal Register** to ensure the directed commercial fishery allocation is not exceeded.

NMFS will consider any Council recommendations for the annual management measures, as well as public comments received on the proposed rule, when it implements fishing periods, fishing period limits, and any other directed commercial management measures. As noted previously, the Council has stated its intent to develop recommendations on annual directed fishery measures (*e.g.,* timing and duration of the fishing periods) through the same September and November meeting process currently utilized to provide recommendations to the IPHC at its annual meeting.

NMFS will determine directed commercial management measures, including fishing periods and fishing period limits, using similar decision criteria that the IPHC used to set fishing periods and fishing period limits. The annual rulemaking process may include the announcement of more than one fishing period. In determining fishing period limits, NMFS will consider the directed commercial allocation, vessel class, the number of fishery permit applicants and projected number of participants per vessel class, the average catch of vessels compared to past fishing period limits, and other relevant factors. As did the IPHC in setting vessel limits, NMFS will consider the fact that smaller vessels have lesser capacities to carry gear and Pacific halibut than larger vessels. The intent of these fishing period limits is to ensure that the Area 2A commercial directed fishery does not exceed the directed commercial allocation, while also providing fair and equitable access across participants to an attainable amount of harvest.

As noted previously, NMFS is establishing a permit application deadline for the directed commercial fishery of February 15, which is more than two months earlier than the date used by the IPHC. NMFS is setting this earlier deadline to ensure that directed commercial fishery management measures are in place prior to the initial fishing period(s), traditionally opening in late June. The timing for the annual management measures rule with directed commercial management measures will allow for consideration of any Council recommendations that take place at the September and November meetings, public comments by stakeholders, and the Area 2A catch limit recommendation from the IPHC annual meeting. NMFS intends to annually publish a proposed rule after the Area 2A directed commercial allocation is determined by the IPHC (usually in late January or early February), and will publish a final rule as far in advance of the first directed commercial fishing period as practicable.

During the annual fishing season, NMFS may establish additional fishing periods beyond those implemented at the start of the fishing year. For example, if the fishery has not attained nor is projected to have attained the directed commercial allocation during the initial directed commercial fishing period(s), NMFS will determine whether additional fishing period(s) are warranted. The decision to add fishing periods beyond those announced in the annual rule establishing the season's management measures will be based on landings information from state fish tickets collected during the initial fishing period(s), and any such decision will have the dual objectives of providing additional opportunity to fishery participants while limiting the risk of exceeding the directed commercial allocation. As soon as practicable after the fishing periods announced in the annual management measures rule and after landings data are analyzed, additional fishing period(s) and applicable fishing period limits will be announced in the **Federal Register** if the Regional Administrator determines that enough allocation remains to provide additional opportunity across all participants and vessel classes. It is NMFS' expectation that the timing of any additional fishing periods will be similar to past IPHC practice and would occur two weeks after the conclusion of the last fishing period. In the event NMFS takes inseason action to add fishing period(s), fishing period limits will be set at the same amount for each vessel class. Generally, fewer vessels participate in each fishing period as the season progresses (that is, the first fishing period has the highest level of participation and most pounds landed, followed by the second fishing period, etc.). During any additional fishing periods, NMFS will set vessel limits equal across all sizes because the number of vessels in each vessel class varies by fishing period and year and participants may choose to engage in any fishing period; thus, the number of participants per vessel class can be unpredictable.

Comments and Responses

NMFS published the proposed rule on July 26, 2022 (87 FR 44318). NMFS accepted public comments on the permitting system and the directed commercial management measure framework through August 25, 2022. NMFS received one comment, from the Oregon Department of Fish and Wildlife (ODFW).

Comment: ODFW noted the earlier permit application deadlines compared to those of the IPHC, and posed questions related to how NMFS intends to provide information and outreach to the public on the new deadlines. These questions included whether there will be allowance for late applications or an appeals process for late or denied applications, as well as information on when and where permit applications will be made available. ODFW also commented on the timeframe of additional openings, whether it would be days, weeks, or months between openings, noting that fish buyers have developed markets based on the timing of openings, and how vessel operators must arrange logistics for the Pacific halibut fishery (*e.g.,* for procuring ice and bait) and develop business plans for participating in other fisheries.

Response: NMFS recognizes that certain components of this action, including the permit application deadlines, are different from past IPHC requirements. NMFS intends to utilize a variety of communication methods (*e.g.,* email listserv, web pages and bulletins, and telephone hotline) to ensure that the regulated public are fully aware of the permit deadlines and how to apply, and to perform outreach in coordination with the IPHC, Council, and the states. An appeals process for permit denials was included in the proposed rule and remains unchanged in this final rule.

In the event NMFS takes inseason action to add fishing periods, the intervening times between fishing periods is expected to be similar to those in previous years. NMFS will provide as much detail about fishing periods as is practicable in the annual rulemaking ahead of each fishing season in order to facilitate market and fishery participants' planning for the upcoming fishing year.

Changes From the Proposed Rule

There were no substantive changes made between the proposed rule and this final rule. NMFS made minor textual edits for clarity between the proposed and this final rule.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Washington, Oregon, and California.

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 for purposes of the Regulatory Flexibility Act. The factual basis for the certification was published in the proposed rule and is not repeated here. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This rule extends the current collection titled ''Northwest Region Federal Fisheries Permits'' (OMB Control Number 0648–0203) and also changes the existing requirements for the collection of information 0648–0203 by adding a Pacific halibut permit for the recreational charter fishery, the directed commercial fishery, and incidental catch of halibut in the salmon troll and sablefish fisheries. This change will increase the number of respondents for this collection by 550 respondents annually. It will also increase the cost of the collection by $17,050. Public reporting burden for the new Pacific halibut permits is estimated to average 20 minutes per respondent, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite 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. Written comments and recommendations for this information collection should be submitted at the website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by using the search function and entering either the title of the collection or the OMB Control Number 0648–0203.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

Dated: November 29, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart E, is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

■ 1. The authority citation for part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773–773k.

■ 2. In § 300.61, add definitions for ''Fishing period,'' ''Fishing period limit,'' ''Permit,'' ''Vessel class'' in alphabetical order to read as follows:

§ 300.61 Definitions.

* * * * *

Fishing period means, for purposes of commercial fishing in Commission regulatory Area 2A, dates and/or hours when fishing for Pacific halibut in Area 2A is allowed.

Fishing period limit means, for purposes of commercial fishing in Commission regulatory Area 2A, the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period in Area 2A.

* * * * *

Permit means, for purposes of commercial fishing in Commission regulatory Area 2A, a Pacific halibut fishing permit for Area 2A issued by NMFS pursuant to § 300.63(f).

* * * * *

Vessel class means, for purposes of commercial fishing in Commission regulatory Area 2A, a group of vessels within a specific range of overall length (in feet) (46 CFR 69.9), as designated by the letters A–H pursuant to § 300.63(g).

■ 3. In § 300.63, add paragraphs (f) and (g) to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

* * * * *

(f) *Pacific Halibut Permits for IPHC Regulatory Area 2A*—(1) *General.* (i) This section applies to persons and vessels that fish for Pacific halibut, or land and retain Pacific halibut, in IPHC regulatory area 2A. No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used either for commercial fishing or as a recreational charter vessel in IPHC regulatory area 2A, unless the NMFS West Coast Region has issued a permit valid for fishing in IPHC regulatory area 2A for that vessel.

(ii) A permit issued for a vessel operating in the Pacific halibut fishery in IPHC regulatory area 2A shall be valid for one of the following, per paragraph (d) of this section:

(A) The incidental catch of Pacific halibut during the salmon troll fishery specified in paragraph (b)(2) of this section;

(B) The incidental catch of Pacific halibut during the sablefish fishery specified in paragraph (b)(3) of this section;

(C) The non-tribal directed commercial fishery during the fishing periods specified in paragraph (g)(1) of this section;

(D) Both the incidental catch of Pacific halibut during the sablefish fishery specified in paragraph (b)(3) of this section and the non-tribal directed commercial fishery during the fishing periods specified in paragraph (g)(1) of this section; or

(E) The recreational charter fishery.

(iii) A permit issued under paragraph (f) of this section is valid only for the vessel for which it is registered. A change in ownership, documentation, or name of the registered vessel, or transfer of the ownership of the registered vessel will render the permit invalid.

(iv) A vessel owner must contact NMFS if the vessel for which the permit

is issued is sold, ownership of the vessel is transferred, the vessel is renamed, or any other reason for which the documentation of the vessel is changed as the change would invalidate the current permit. A new permit application is required if there is a change in any documentation of the vessel. To submit a new permit application, follow the procedures outlined under paragraph (f)(2) of this section. If the documentation of the vessel is changed after the deadline to apply for a permit has passed as described at paragraph (f)(2)(ii) of this section, the vessel owner may contact NMFS and provide information on the reason for the documentation change and all permit application information described at paragraph (f)(2) of this section. NMFS may issue a permit, or decline to issue a permit and the applicant may appeal per paragraph (f)(3) of this section.

(v) A permit issued under paragraph (f) of this section must be carried on board that vessel at all times and the vessel operator shall allow its inspection by any authorized officer. The format of this permit may be electronic or paper.

(vi) No individual may alter, erase, mutilate, or forge any permit or document issued under this section. Any such permit or document that is intentionally altered, erased, mutilated, or forged is invalid.

(vii) Permits issued under paragraph (f) of this section are valid only during the calendar year (January 1–December 31) for which it was issued.

(viii) NMFS may suspend, revoke, or modify any permit issued under this section under policies and procedures in title 15 CFR part 904, or other applicable regulations in this chapter.

(2) *Applications*—(i) *Application form.* To obtain a permit, an individual must submit a complete permit application to the NMFS West Coast Region Sustainable Fisheries Division (NMFS) through the NOAA Fisheries Pacific halibut web page at *https://www.fisheries.noaa.gov/west-coast/commercial-fishing/west-coast-fishing-permits.* A complete application consists of:

(A) An application form that contains valid responses for all data fields, including information and signatures.

(B) A current copy of the U.S. Coast Guard Documentation Form or state registration form or current marine survey.

(C) Payment of required fees as discussed in paragraph (f)(2)(iv) of this section.

(D) Additional documentation NMFS may require as it deems necessary to make a determination on the application.

(ii) *Deadlines.* (A) Applications for permits for the directed commercial fishery in regulatory area 2A must be received by NMFS no later than 2359 PST on February 15, or by 2359 PST the next business day in February if February 15 is a Saturday, Sunday, or Federal holiday.

(B) Applications for permits, which allow for incidental catch of Pacific halibut during the salmon troll fishery and the sablefish primary fishery in Area 2A, must be received by NMFS no later than 2359 PST March 1, or by 2359 PST the next business day in March if March 1 is a Saturday, Sunday, or Federal holiday.

(C) Applications for permits for recreational charter vessels which allow for catch of Pacific halibut during the recreational fishery must be received a minimum of 15 days before intending to participate in the fishery, to allow for processing the permit application.

(iii) *Application review and approval.* NMFS shall issue a vessel permit upon receipt of a completed permit application submitted on the NOAA Fisheries website no later than the day before the start date of the fishery the applicant selected. If the application is not approved, NMFS will issue an initial administrative decision (IAD) that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (f)(3) of this section. NMFS will decline to act on a permit application that is incomplete or if the vessel or vessel owner is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D.

(iv) *Permit fees.* The Regional Administrator may charge fees to cover administrative expenses related to processing and issuance of permits, processing change in ownership or change in vessel registration, divestiture, and appeals of permits. The amount of the fee is determined in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs. Full payment of the fee is required at the time a permit application is submitted.

(3) *Appeals.* In cases where the applicant disagrees with NMFS's decision on a permit application, the applicant may appeal that decision to the Regional Administrator. This paragraph (f)(3) describes the procedures for appealing the IAD on permit actions made in this title under this subpart.

(i) *Who may appeal?* Only an individual who received an IAD that disapproved any part of their application may file a written appeal. For purposes of this section, such individual will be referred to as the ''permit applicant.''

(ii) *Appeal process.* (A) The appeal must be in writing, must allege credible facts or circumstances to show why the criteria in this subpart have been met, and must include any relevant information or documentation to support the appeal. The permit applicant may request an informal hearing on the appeal.

(B) Appeals must be mailed or faxed to: National Marine Fisheries Service, West Coast Region, Sustainable Fisheries Division, ATTN: Appeals, 7600 Sand Point Way NE, Seattle, WA, 98115; Fax: 206–526–6426; or delivered to National Marine Fisheries Service at the same address.

(C) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, and may request additional information to allow action on the appeal.

(D) Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the permit provisions set forth in this section at the time of the application, based upon information relative to the application on file at NMFS and any additional information submitted to or obtained by the Regional Administrator, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the Regional Administrator deems appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons for the decision, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(E) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant, and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(F) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's decision will constitute the final administrative action by NMFS on the matter.

(iii) *Timing of appeals.* (A) For permit issued under paragraph (f) of this section, if an applicant appeals an IAD, the appeal must be postmarked, faxed, or hand delivered to NMFS no later than 60 calendar days after the date on the IAD. If the applicant does not appeal the IAD within 60 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(B) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

(iv) *Address of record.* For purposes of the appeals process, NMFS will establish as the address of record, the address used by the permit applicant in initial correspondence to NMFS. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(v) *Status of permits pending appeal.* (A) For all permit actions, the permit registration remains as it was prior to the request until the final decision has been made.

(B) [Reserved]

(g) *Non-tribal directed commercial fishery management.* Each year a portion of regulatory area 2A's overall fishery limit is allocated consistent with the Pacific Fishery Management Council's Catch Sharing Plan to the non-tribal directed commercial fishery and published pursuant to § 300.62. The non-tribal directed commercial fishery takes place in the area south of Point Chehalis, WA (46°53.30′ N lat.).

(1) *Management measures.* Annually, NMFS will determine and publish in the **Federal Register** annual management measures for the upcoming fishing year for the non-tribal directed commercial fishery. This will include dates and lengths for the fishing periods for the Area 2A non-tribal directed commercial fishery, as well as the associated fishing period limits.

(i) *Fishing periods.* NMFS will determine the fishing periods, *e.g.,* dates and/or hours that permittees may legally harvest halibut in Area 2A, on an annual basis. This determination will take into account any recommendations provided by the Pacific Fishery Management Council and comments received by the public during the public comment period on the proposed annual management measures rule. The intent of these fishing periods is to ensure the Area 2A Pacific halibut directed commercial allocation is achieved but not exceeded.

(ii) *Fishing period limits.* NMFS will establish fishing period limits, *e.g.,* the maximum amount of Pacific halibut that a vessel may retain and land during a specific fishing period, and assign those limits according to vessel class for each fishing period. Fishing period limits may be different across vessel classes (except as described in paragraph (g)(1)(iii) of this section). NMFS will determine fishing period limits following the considerations listed in paragraph (g)(1)(ii)(A) of this section. The intent of these fishing period limits is to ensure that the Area 2A commercial directed fishery does not exceed the directed commercial allocation, while attempting to provide fair and equitable access across fishery participants to an attainable amount of harvest. The limits will be published in annual management measures rules in the **Federal Register** along with a description of the considerations used to determine them.

(A) *Considerations.* When determining fishing period(s) and associated fishing period limits for the directed commercial fishery, NMFS will consider the following factors:

(*1*) The directed commercial fishery allocation;

(*2*) Vessel class;

(*3*) Number of fishery permit applicants and projected number of participants per vessel class;

(*4*) The average catch of vessels compared to past fishing period limits;

(*5*) Other relevant factors.

(B) *Vessel classes.* Vessel classes are based on overall length (defined at 46 CFR 69.9) shown in the following table:

TABLE 1 TO PARAGRAPH (g)(1)(ii)(B)

Overall length (in feet)	Vessel class
1–25	A
26–30	B
31–35	C
36–40	D
41–45	E
46–50	F
51–55	G
56+	H

(iii) *Inseason action to add fishing periods and associated fishing period limits.* Fishing periods in addition to those originally implemented at the start of the fishing year may be warranted in order to provide the fishery with opportunity to achieve the Area 2A directed commercial fishery allocation, if performance of the fishery during the initial fishing period(s) is different than expected and the directed commercial allocation is not attained through the initial period(s). If NMFS makes the determination that sufficient allocation remains to warrant additional fishing period(s) without exceeding the allocation for the Area 2A directed commercial fishery, the additional fishing period(s) and fishing period limits may be added during the fishing year. If NMFS determines fishing period(s) in addition to those included in an annual management measures rule is warranted, NMFS will set the fishing period limits equal across all vessel classes. The fishing period(s) and associated fishing period limit(s) will be announced in the **Federal Register** and concurrent publication on the hotline. If the amount of directed commercial allocation remaining is determined to be insufficient for an additional fishing period, the allocation is considered to be taken and the fishery will be closed, as described at paragraph (g)(2) of this section.

(2) *Automatic closure of the non-tribal directed commercial fishery.* The NMFS Regional Administrator or designee will initiate automatic management actions without prior public notice or opportunity to comment. These actions are nondiscretionary and the impacts must have been previously been taken into account.

(i) If NMFS determines that the non-tribal directed commercial fishery has attained its annual allocation or is projected to attain its allocation if additional fishing was to be allowed, the Regional Administrator will take automatic action to close the fishery, via announcement in the **Federal Register** and concurrent notification on the telephone hotline at 206–526–6667 or 800–662–9825.

(ii) [Reserved]

[FR Doc. 2022–26325 Filed 11–30–22; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RTID 0648–BK81

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Non-Trawl Logbook; Correction

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

ACTION: Final rule; correction.

SUMMARY: NMFS published a final rule on October 3, 2022, announcing a Federal requirement for certain vessels in the Pacific Coast Groundfish fishery target fishing for groundfish with non-trawl gear in Federal waters seaward of California, Oregon, and Washington, to complete and submit a non-trawl logbook to NMFS via an electronic application (87 FR 59724). This correction is necessary to modify a regulatory instruction so that the implementing regulations are accurate. This correction is also necessary to clarify the methods by which fishermen can record required information while on a fishing trip.

DATES: This correction is effective January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Lynn Massey, (971) 238–2514, email: *lynn.massey@noaa.gov.*

ADDRESSES:

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

SUPPLEMENTARY INFORMATION: NMFS published a final rule on October 3, 2022, announcing a Federal requirement for certain vessels in the Pacific Coast Groundfish fishery target fishing for groundfish with non-trawl gear in Federal waters seaward of California, Oregon, and Washington, to complete and submit a non-trawl logbook to NMFS via an electronic application (87 FR 59724). This rule is effective January 1, 2023.

The October 3, 2022, final rule included regulatory changes to the declaration codes listed at § 660.13(d)(4)(iv)(A). These regulatory instructions conflict with regulatory instructions that modify the same declaration codes in a different final rule that NMFS published on the same day to implement electronic monitoring program regulations for vessels using groundfish bottom trawl and non-whiting midwater trawl gear in the Pacific Coast Groundfish Trawl Catch Share Program (87 FR 59705, October 3, 2022). This correction is necessary to modify the incorrect regulatory instruction so that the implementing regulations are accurate.

This correction is also necessary to clarify the methods by which fishermen can record required information while on a fishing trip. NMFS added clarifying regulatory text that explains that fishermen can record required gear setting and retrieval information outside of the electronic logbook application while fishing, as long as the information is entered and submitted within the electronic logbook application within 24 hours of landing.

Correction

■ In FR. Doc. 2022–21409 at 87 FR 59724 in the issue of October 3, 2022, on page 59728, correct amendatory instruction 4 and the regulatory text to read:

■ 4. In § 660.13:

■ a. Add paragraphs (a)(2) through (4); and

■ b. Revise paragraphs (d)(4)(iv) introductory text and paragraph (d)(4)(iv)(A).

The additions and revisions read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(a) * * *

(2) *Non-Trawl Logbook.* The authorized representative of a commercial vessel participating in the below list of groundfish fishery sectors must keep and submit a complete and accurate record of fishing activities in the non-trawl electronic logbook application:

(i) The directed open access fishery, as defined at § 660.11;

(ii) The limited entry fixed gear trip limit fisheries subject to the trip limits in Table 2 North and South to Subpart E, and primary sablefish fisheries, as defined at § 660.211; and

(iii) Gear switching in the Shorebased IFQ Program, as defined at § 660.140(k).

(3) *Non-Trawl Electronic Logbook Application.* The non-trawl electronic logbook application is a web-based portal used to send data from non-trawl fishing trips to the Pacific States Marine Fisheries Commission. The following requirements apply:

(i) The authorized representative of the vessel must complete an entry in the non-trawl electronic logbook application for all groundfish fishing trips, as defined under § 660.11. Required information for each fishing trip includes, but is not limited to, information on set-level data on catch, discards, fishing location, fishing depth, gear configuration, and sale.

(ii) The authorized representative of the vessel must complete an entry for each groundfish fishing trip in the non-trawl electronic logbook application with valid responses for all data fields in the application, except for information not yet ascertainable, prior to entering port, subject to the following requirements:

(A) *Setting gear.* Logbook entries for setting gear, including vessel information, gear specifications, set date/time/location, must be completed within 2 hours of setting gear. The authorized representative of each vessel may record or document this information in a format outside of the electronic logbook application (*e.g.,* waterproof paper). Information recorded outside of the electronic logbook application must be available for review at-sea by authorized law enforcement personnel upon request, and must be entered into the electronic application per subparagraph C.

(B) *Retrieving gear.* Logbook entries for retrieving gear, including date/time recovered and catch/discard information, must be completed within 4 hours of retrieving gear. The authorized representative of each vessel may record or document this information in a format outside of the electronic logbook application (*e.g.,* waterproof paper). Information recorded outside of the logbook entry must be available for review at-sea by authorized law enforcement personnel upon request, and must be entered into the electronic application per subparagraph C.

(C) *Non-Trawl Electronic Logbook Submission.* The authorized representative of the vessel must complete and submit entries in the non-trawl electronic logbook application within 24 hours of the completion of offload, including information under subparagraphs A and B that was captured but not recorded in the electronic logbook application while fishing.

(4) *Non-Trawl Paper Logbook.* For a minimum of one year from the effective date of the final rule, vessels subject to

this non-trawl logbook requirement are permitted to submit a paper logbook form in lieu of the requirement to fill out the non-trawl electronic logbook application. The West Coast Regional Administrator will prescribe the paper logbook forms required under this section. NMFS will issue a public notice at least 90 calendar days prior to ending the optional provision to submit a paper logbook. The authorized representative of the vessel must complete the non-trawl logbook form on all groundfish trips, subject to the same requirements as for the non-trawl electronic logbook application, listed above in § 660.13(a)(3)(i) through (ii). The authorized representative of the vessel must deliver the NMFS copy of the non-trawl logbook form by mail, email, or in person to NMFS or its agent within 30 days of landing. The authorized representative of the vessel responsible for submitting the non-trawl logbook forms must maintain a copy of all submitted logbooks for a minimum of three years after the fishing activity ended.

* * * * *

(d) * * *

(4) * * *

(iv) Declaration reports will include: The vessel name and/or identification number, gear type, and monitoring type where applicable, (as defined in paragraph (d)(4)(iv)(A) of this section). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator. Vessels using non-trawl gear may declare more than one gear type with the exception of vessels participating in the Shorebased IFQ Program (*i.e.* gear switching); however, vessels using trawl gear may only declare one of the trawl gear types listed in paragraph (d)(4)(iv)(A) of this section on any trip and may not declare non-trawl gear on the same trip in which trawl gear is declared.

(A) One of the following gear types or sectors, and monitoring type where applicable, must be declared:

(*1*) Limited entry fixed gear, not including shorebased IFQ (declaration code 10);

(*2*) Limited entry groundfish non-trawl, shorebased IFQ, observer (declaration code 11);

(*3*) Limited entry groundfish non-trawl, shorebased IFQ, electronic monitoring (declaration code 11);

(*4*) Limited entry midwater trawl, non-whiting shorebased IFQ, observer (declaration code 20);

(*5*) Limited entry midwater trawl, non-whiting shorebased IFQ, electronic monitoring (declaration code 20),

(*6*) Limited entry midwater trawl, Pacific whiting shorebased IFQ, observer (declaration code 21);

(*7*) Limited entry midwater trawl, Pacific whiting shorebased IFQ, electronic monitoring (declaration code 21);

(*8*) Limited entry midwater trawl, Pacific whiting catcher/processor sector (declaration code 22);

(*9*) Limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel or mothership), observer (declaration code 23);

(*10*) Limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel), electronic monitoring (declaration code 23);

(*11*) Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl, observer (declaration code 30);

(*12*) Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl, electronic monitoring (declaration code 30);

(*13*) Limited entry demersal trawl, shorebased IFQ, observer (declaration code 31);

(*14*) Limited entry demersal trawl, shorebased IFQ, electronic monitoring (declaration code 31);

(*15*) Limited entry selective flatfish trawl, shorebased IFQ, observer (declaration code 32);

(*16*) Limited entry selective flatfish trawl, shorebased IFQ, electronic monitoring (declaration code 32);

(*17*) Non-groundfish trawl gear for pink shrimp (declaration code 41);

(*18*) Non-groundfish trawl gear for ridgeback prawn (declaration code 40);

(*19*) Non-groundfish trawl gear for California halibut (declaration code 42);

(*20*) Non-groundfish trawl gear for sea cucumber (declaration code 43);

(*21*) Open access bottom contact hook-and-line gear for groundfish (*e.g.,* bottom longline, commercial vertical hook-and-line, dinglebar) (declaration code 33);

(*22*) Open access Pacific halibut longline gear (declaration code 62);

(*23*) Open access groundfish trap or pot gear (declaration code 34);

(*24*) Open access Dungeness crab trap or pot gear (declaration code 61);

(*25*) Open access prawn trap or pot gear (declaration code 60);

(*26*) Open access sheephead trap or pot gear (declaration code 65);

(*27*) Open access non-bottom contact hook and line gear for groundfish (*e.g.,* troll, jig gear, rod & reel gear) (declaration code 35);

(*28*) Open access non-bottom contact stationary vertical jig gear (declaration code 36);

(*29*) Open access non-bottom contact troll gear (declaration code 37);

(*30*) Open access HMS line gear (declaration code 66);

(*31*) Open access salmon troll gear (declaration code 63);

(*32*) Open access California Halibut line gear (declaration code 64);

(*33*) Open access Coastal Pelagic Species net gear (declaration code 67);

(*34*) Other, a gear that is not listed above (declaration code 69);

(*35*) Tribal trawl gear (declaration code 50);

(*36*) Open access set net or gillnet gear—California (declaration 68); or

(*37*) Gear testing, Trawl Rationalization fishery (declaration code 70).

* * * * *

Dated: November 28, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–26231 Filed 12–2–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 232
Monday, December 5, 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–2022–1490; Project Identifier MCAI–2022–01177–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2, and AS355N helicopters. This proposed AD was prompted by a report of a partially broken tail rotor drive fan support (fan support) and a completely broken fan support. This proposed AD would require repetitively inspecting certain part-numbered fan supports (affected parts), and depending on the results, removing an affected part from service and replacing it with a serviceable part, which constitutes terminating action for the repetitive inspections. This proposed AD would also require replacing affected parts with serviceable parts unless already accomplished and prohibit installing an affected part on any helicopter, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. 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 January 19, 2023.

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–2022–1490; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material that is incorporated by reference (IBR) in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *easa.europa.eu.* You may find this IBR material on the EASA website at *ad.easa.europa.eu.*
- You may view this this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2022–1490.

Other Related Service Information: For Airbus Helicopters service information identified in this NPRM, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *airbus.com/helicopters/services/technical-support.html.* This service information is also available at the FAA contact information under *Material Incorporated by Reference* above.

FOR FURTHER INFORMATION CONTACT: Jared Hyman, Aerospace Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7799; email *9-AVS-AIR-BACO-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–2022–1490; Project Identifier MCAI–2022–01177–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 Jared Hyman, Aerospace Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7799; email *9-AVS-AIR-BACO-COS@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued a series of EASA ADs with the most recent being EASA AD 2022–0180, dated August 29, 2022 (EASA AD 2022–0180), to correct an unsafe condition for Airbus Helicopters, formerly Eurocopter, Eurocopter France, Aerospatiale, Model AS 355 E, AS 355 F, AS 355 F1, AS 355 F2, and AS 355 N helicopters, all serial numbers.

This proposed AD was prompted by a report of a partially broken right-hand side (RH) fan support and a completely broken left-hand side (LH) fan support found during scheduled maintenance on a Model AS355 helicopter. The FAA is proposing this AD to detect a cracked or broken fan support leg. The unsafe condition, if not addressed, could result in loss of main gearbox and engine oil cooling function, loss of tail rotor drive, and subsequent loss of control of the helicopter. See EASA AD 2022–0180 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0180 requires repetitively inspecting certain part-numbered RH and LH fan supports for a crack and broken leg and, if there is any crack or broken leg, replacing the affected fan support with a serviceable fan support. If the replacement is not required as a result of the inspection, EASA AD 2022–0180 requires the replacement at a longer compliance time. EASA AD 2022–0180 also states that the replacement constitutes terminating action for the repetitive inspections and prohibits installing an affected part 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 Airbus Helicopters Alert Service Bulletin No. AS355–05.00.88, Revision 1, dated July 20, 2022. This service information specifies procedures for inspecting the RH and LH fan supports for a crack and failure (broken leg), replacing an affected part with a serviceable part, and performing a balancing of the tail rotor drive shaft.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of these same type designs.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the EASA AD, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0180 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0180 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 2022–0180 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 2022–0180. Service information referenced in EASA AD 2022–0180 for compliance will be available at regulations.gov by searching for and locating Docket No. FAA–2022–1490 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

EASA AD 2022–0180 requires replacing each affected part with a serviceable part if any crack or broken leg is found during any required inspection or if the replacement was not previously performed as a result of an inspection, whereas this proposed AD would require removing each affected part from service and replacing with a serviceable part if any crack or broken leg is found during any required inspection or if the replacement was not previously performed as a result of an inspection.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 31 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.

Visually inspecting a fan support for a crack and broken leg would take about 1 work-hour for an estimated cost of $170 per helicopter (2 fan supports per helicopter) per inspection cycle and up to $5,270 for the U.S. fleet per inspection cycle.

Replacing a fan support would take about 8 work-hours and parts would cost about $600 for an estimated cost of $1,280 per replacement and up to $39,680 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2022–1490; Project Identifier MCAI–2022–01177–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 19, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2, and AS355N helicopters, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6500, Tail Rotor Drive System.

(e) Unsafe Condition

This AD was prompted by a report of a partially broken right-hand side tail rotor drive fan support (fan support) and a completely broken left-hand side fan support. The FAA is issuing this AD to detect a cracked or broken fan support leg. The unsafe condition, if not addressed, could result in loss of main gearbox and engine oil cooling function, loss of tail rotor drive, and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2022–0180, dated August 29, 2022 (EASA AD 2022–0180).

(h) Exceptions to EASA AD 2022–0180

(1) Where EASA AD 2022–0180 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2022–0180 refers to the effective dates specified in paragraphs (h)(2)(i) and (ii) of this AD, this AD requires using the effective date of this AD.

(i) May 3, 2022 (the effective date of EASA AD 2022–0069, dated April 19, 2022).

(ii) The effective date of EASA AD 2022–0180.

(3) Where paragraphs (2) and (3) of EASA AD 2022–0180 specify ''replacing each affected part with a serviceable part,'' for this AD, replace that text with ''removing each affected part from service and replacing it with a serviceable part.''

(4) Where the service information referenced in EASA AD 2022–0180 specifies to use tooling, this AD allows the use of equivalent tooling.

(5) Where the service information referenced in EASA AD 2022–0180 specifies to discard parts, this AD requires removing those parts from service.

(6) The ''Remarks'' section of EASA AD 2022–0180 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0180 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits are prohibited.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (m) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(l) Additional Information

For more information about this AD, contact Jared Hyman, Aerospace Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7799; email *9-AVS-AIR-BACO-COS@faa.gov.*

(m) Materials 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 the AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2022–0180, dated August 29, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0180, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *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 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.

(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 29, 2022.

Christina Underwood,

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

[FR Doc. 2022–26324 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1505; Airspace Docket No. 22–ASO–26]

RIN 2120–AA66

Proposed Establishment of Class E Airspace and Proposed Amendment of Class E Airspace; Dallas, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E surface airspace for Paulding Northwest Atlanta Airport (new name), Dallas, GA, as the airport now qualifies for surface airspace, and amend Class E airspace extending upward from 700 feet above the surface by increasing the airport radius and updating the airport's name. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before January 19, 2023.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200

New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify Docket No. FAA–2022–1505; Airspace Docket No. 22–ASO–26 at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would establish and amend airspace in Dallas, GA, to support IFR operations in the area.

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2022–1505 and Airspace Docket No. 22–ASO–26) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–1505; Airspace Docket No. 22–ASO–26.'' The postcard will be dated/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except for federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350,1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to establish Class E surface airspace for Paulding Northwest Atlanta Airport, Dallas, GA, to accommodate aircraft landing and departing this airport. Also, this action would amend Class E airspace extending upward from 700 feet above the surface for Paulding Northwest Atlanta Airport (formerly Paulding County Regional Airport) by increasing the radius to 7 miles (from 6.5 miles) and updating the airport's name.

Class E airspace designations are published in Paragraphs 6002 and 6005, respectively, of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Surface Airspace.

* * * * *

ASO GA E2 Dallas, GA [Established]

Paulding Northwest Atlanta Airport, GA (Lat. 33°54′43″ N, long. 84°56′26″ W)

That airspace extending upward from the surface within a 4.5-mile radius of the Paulding Northwest Atlanta Airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Dallas, GA [Amended

Paulding Northwest Atlanta Airport, GA (Lat. 33°54′43″ N, long. 84°56′26″ W)

That airspace extending upward from 700 feet above the surface of the Earth within a 7-mile radius of the Paulding Northwest Atlanta Airport.

Issued in College Park, Georgia, on November 29, 2022.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–26372 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

[2231A2100DD/AAKC001030/ A0A501010.999900]

RIN 1076–AF71

Land Acquisitions

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) seeks input on changes to its regulations governing the discretionary acquisition of land into trust for the benefit of tribal governments and individual Indians. Since these regulations were first promulgated in 1980, the BIA has developed extensive experience in the fee-to-trust acquisition process. Relying on that experience and input from tribal governments and individual Indians, this proposed rule seeks to make the land into trust process more efficient, simpler, and less expensive to support restoration of tribal homelands.

DATES: Interested persons are invited to submit comments on or before March 1, 2023.

ADDRESSES: You may submit comments by any one of the following methods.

- *Federal eRulemaking Portal:* Please upload comments to *https://www.regulations.gov* by using the ''search'' field to find the rulemaking and then following the instructions for submitting comments.
- *Email:* Please send comments to consultation and include ''RIN 1076–AF71, 25 CFR part 151'' in the subject line of your email.
- *Mail:* Please mail comments to Indian Affairs, RACA, 1001 Indian School Road NW, Suite 229, Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Oliver Whaley, Director, Office of Regulatory Affairs and Collaborative Action (RACA), Office of the Assistant Secretary—Indian Affairs; Department of the Interior, telephone (202) 738–6065, *RACA@bia.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary; AS–IA) by 209 Departmental Manual (DM) 8.

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I. Statutory Authority

Congress granted the Assistant Secretary—Indian Affairs (then, the Commissioner of Indian Affairs) authority to ''have management of all Indian affairs and of all matters arising out of Indian relations.'' [1] Through section 5 of the Indian Reorganization Act of 1934 (IRA), Congress further empowered the Department of the Interior (Department) to acquire, in its discretion, any interest in lands, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments for the purpose of providing land for tribal governments and individual Indians.[2]

II. Executive Summary

This proposed rule would update regulations at 25 CFR part 151 that address how the Bureau of Indian Affairs (BIA) considers and processes applications for the discretionary

[1] 25 U.S.C. 2 and 9, and 43 U.S.C. 1457.

[2] *See* 25 U.S.C. 5108.

acquisition of land into trust for the benefit of tribal governments and individual Indians, often referred to in shorthand as fee-to-trust or land into trust. The BIA has processed thousands of applications placing over a million acres of land into trust for tribes and individual Indians since the passage of the IRA in 1934. Holding land in trust greatly benefits tribes and individual Indians in various ways, including through exemption from state and local taxation and clearer tribal jurisdiction over the land. The revisions proposed here should allow BIA to process applications more quickly and with less expense to applicants.

These revisions also reflect input and recommendations provided by tribes during tribal consultations hosted by the Department. On March 28, 2022, the Department published a Dear Tribal Leader Letter announcing tribal consultation regarding proposed changes to 25 CFR part 151. The Department held two listening sessions and four formal consultation sessions. The Department also accepted written comments until June 30, 2022.

The Dear Tribal Leader Letter included a Consultation Draft of the proposed revisions to 25 CFR part 151; a Consultation Summary Sheet of Draft Revisions to Part 151; and a redline reflecting proposed changes. The Dear Tribal Leader Letter asked for comments on the Consultation Draft as well as responses to seven consultation questions. The Department received comments from tribal leaders.

III. Overview of Proposed Rule

In general, the proposed rule seeks to make the process of acquiring land into trust for the benefit of tribal governments and individual Indians more efficient, simpler, and less expensive. The BIA has attempted to do so here through extensive changes to the regulation, best explained in a section-by-section review as provided below in section IV. However, we summarize the major, overarching changes briefly here.

First, BIA affirms that it is the Secretary of the Interior's (Secretary) policy to take land into trust for many reasons supporting tribal and Indian welfare. The prior regulation lacked any affirmative policy in favor of acquisition; it will now be clear Departmental policy to support land into trust, subject to the discretion provided by the IRA. Second, BIA seeks to speed the decision-making process by requiring a decision within 120 days of assembling a complete application package. Third, the proposed rule streamlines the process for the four different forms of acquisitions—on-reservation, contiguous to reservations, off-reservation, and initial Indian acquisitions. For each form, the proposed rule eliminates certain former criteria, and establishes certain presumptions designed to make the process more efficient, based on BIA's longstanding practice and experience in trust acquisitions. We have also developed a new fourth category of acquisition, ''initial Indian acquisitions,'' designed to ease the process of acquiring first trust lands for those tribes who do not currently possess any land in trust. Fourth, the revised rule lays out in regulatory text the process for determining whether a tribe was ''under federal jurisdiction'' in 1934, as required by *Carcieri* v. *Salazar,* 555 U.S. 379 (2009). The revised *Carcieri* analysis should make assessing statutory authority here simpler and faster. Fifth, BIA has made many minor changes throughout the rule intended to solve problems and remove obstacles that tribes and individual Indians have faced in the trust acquisition process. For example, many applicants have conducted Phase I Environmental Site Assessments multiple times to keep those assessments valid while their application is pending. The proposed rule would anticipate only one such assessment at the beginning of the process, and allow for a single update, if necessary, after the notice of decision has been signed.

IV. Summary of Changes by Section

A. Section 151.1 What is the purpose of this part?

The proposed revision clarifies that this regulation does not govern acquisitions mandated by Congress or a Federal court order. The agency has issued guidance concerning such mandatory acquisitions, including the guidance found in BIA's Fee-to-Trust Handbook, and does not believe regulations are necessary at this time. This is because there are many, varying authorities for mandatory acquisitions, and it is difficult to draft regulations that would be consistent with all current and future mandatory acquisitions. We avoid the risk of creating inconsistency with statutory and judicial orders mandating acquisitions by employing simple guidance on how we approach such acquisitions rather than one-size-fits-all regulations.

B. Section 151.2 How are key terms defined?

The BIA proposes adding or revising many definitions for important terms, including terms used in the previous version of the regulations as well as new terms used in the proposed revision.

The proposed rule adds new definitions for the following terms: *contiguous, fee interest, fractionated tract, Indian land, Indian landowner, initial Indian acquisition, interested party, marketable title, preliminary title opinion, preliminary title report,* and *undivided interest.* Definitions are also now listed in alphabetical order.

i. Clarifying Certain New Definitions

Among the new definitions, we note that *initial Indian acquisition* refers to a new category of acquisitions provided under new § 151.12. The BIA wishes to support acquisitions for tribes that do not currently have land held in trust, furthering the BIA's policy of supporting restoration of homelands. Initial Indian acquisitions provide a new, more supportive process for tribes without trust land, as discussed further regarding the new § 151.12. Tribal consultation commenters expressed concern that the consultation draft of this revision used the word ''yet'' rather than ''currently'' when referring to land held in trust status. Commenters wanted to ensure that tribes which may have had land in trust in the past but do not have land in trust now would be covered by the initial tribal acquisition provision and asked that ''yet'' be changed to ''currently'' to clarify that approach. We have done so here in the proposed rule. We clarify, in response to these comments, that the proposed rule's intention is to treat tribes that previously held land in trust but do not currently hold land in trust in the same manner as tribes which have never held land in trust.

Tribal consultation commenters also expressed concern regarding the term *marketable title,* and so we have added a clarifying definition for that term to the proposed rule. Commenters believed that requiring marketable title was inappropriate because land held in trust will not likely ever be sold on the market again, and tribes may seek to acquire land for cultural, conservation, spiritual, or other reasons that are entirely separate from commercial concerns. The BIA appreciates and supports those purposes for an acquisition but notes that the term *marketable title* is used here in a strictly legal sense rather than a commercial sense, referring to title that a reasonable buyer would accept because it is sufficiently free from substantial defects and covers the entire property that the seller purports to sell.

ii. Clarifying Changes to Existing Definitions

The definition of *individual Indian* has been modified to remove paragraph (g)(4), which covered acquisitions outside of Alaska by an Alaska Native. This definition implied that acquisitions of land in trust within Alaska was not permissible under these regulations. By removing paragraph (g)(4), BIA clarifies that these regulations do not address that issue. As an additional clarification, the removal of paragraph (g)(4) does not limit trust acquisition by Alaska Natives in any way. Rather, such individuals qualify for individual Indian trust acquisitions in the same manner and to the same extent as any eligible individual Indian under these regulations.

We also clarify here that a person possessing a total of one-half or more degree of Indian blood of a tribe under paragraph (g)(3) may possess such degree of Indian blood through combined heritage from more than one tribe.

The definition of *tribe* has been modified such that an Indian tribe is any tribe listed under section 102 of the Federally Recognized Indian Tribe List Act of 1994. The List Act was not in place when these regulations were first promulgated but should be used now as it is the official record of federally recognized tribes.

The definition of *Indian reservation* has been modified slightly to ensure a comprehensive understanding of reservation status in Oklahoma after *McGirt* v. *Oklahoma,* 140 S. Ct. 2452 (2020). The new definition provides that in the State of Oklahoma ''wherever historic reservations have not yet been reaffirmed'' the term *Indian reservation* means land constituting the former reservation of the tribe as defined by the Secretary. By including this phrase, we make clear that the Secretary will consider all historic Oklahoma reservations consistent with *McGirt* and its progeny as Indian reservations for purposes of this regulation, regardless of whether courts have concluded reaffirmation litigation addressing such historic reservations.

Finally, we removed the definition of *tribal consolidation area.* This term was used only once in the existing rule regarding the Department's land acquisition policy. The proposed rule's expansive understanding of the Department's land acquisition policy will cover any acquisitions in such an area.

C. Section 151.3 Land Acquisition Policy

The existing rule does not express any policy clearly in favor of trust acquisition for tribes and individual Indians. The proposed revision makes plain that the Secretary's policy is to support acquisitions of land in trust for the benefits of tribes and individual Indians. The prior technical introductory language has been moved to new paragraph (a).

In paragraph (b)(3), BIA proposes adding an expansive list of policy reasons that would support an acquisition on behalf of a tribe, including any reason the Secretary determines will support tribal welfare. We note, however, that none of these policy reasons are required if the subject land is within a reservation (per paragraph (b)(1)) or if the tribe already owns an interest in the land, such as a fee interest (per paragraph (b)(2)). We received comment during the tribal consultation encouraging us not to use the word ''establish'' in regard to homelands, and therefore we have changed language to use the word ''protect.'' We also included the policy goal of establishing a tribal land base and providing for climate change-related acquisitions. Commenters also suggested adding ''cultural practices'' to the list of policy reasons in addition to ''cultural resources,'' and we have done so.

In paragraph (c), several tribal consultation commenters pointed out that the word ''adjacent'' is used where the intended meaning was ''contiguous.'' We have changed the text to read ''contiguous,'' consistent with commenters' recommendations and our understanding of the existing rule's meaning.

D. Section 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?

This new section lays out in regulatory text the Department's approach to determining statutory authority for acquisitions in trust as required by the Supreme Court's opinion in *Carcieri* v. *Salazar,* 555 U.S. 379 (2009), which determined that the IRA only authorized acquisitions for tribes that were under Federal jurisdiction at the time of the IRA's passage, June 18, 1934. The proposed approach incorporates caselaw and analysis by the Office of the Solicitor interpreting the Department's statutory authority as guided by *Carcieri.*

The proposed rule identifies three categories of evidence. Conclusive evidence establishes in and of itself both that a tribe was placed under Federal jurisdiction and that this jurisdiction persisted in 1934. If conclusive evidence exists, no further analysis is required. Presumptive evidence indicates that a tribe was placed under Federal jurisdiction and may indicate that such jurisdiction persisted in 1934. Where presumptive evidence exists, further analysis must focus only on whether there is evidence indicating that Federal jurisdiction did not exist or did not exist in 1934, such as a statute expressly removing Federal jurisdiction. If neither conclusive nor presumptive evidence exists, the Department will consider available probative evidence, a comprehensive category for which many examples are listed in paragraph (a)(3)(i).

In response to tribal consultation comments, we have added paragraph (a)(4) to clarify that Federal executive officials cannot disavow a government-to-government relationship with a tribe, as that power belongs solely to Congress.

We note that paragraph (c) explains that, if the Office of the Solicitor has previously issued a favorable *Carcieri* analysis for a tribe, no additional analysis is needed. Such prior determinations remain valid under the proposed revision, which is broader and more inclusive than previous guidance governing the Solicitor's analyses.

Paragraph (e) clarifies that where a statute other than the IRA has authorized trust land acquisitions, the *Carcieri*-based IRA analysis provided for in paragraphs (a) through (d) is not relevant, and the Secretary may acquire land in trust as permitted by the other Federal law.

Finally, we note that existing § 151.4, ''Acquisitions in trust of lands owned in fee by an Indian,'' has been deleted in the proposed rule as unnecessary. The rule already provides for such acquisitions, and this section adds no additional information or process regarding such acquisitions.

E. Section 151.5 May the Secretary acquire land in trust status by exchange?

Minor stylistic changes have been proposed to this section.

F. Section 151.6 May the Secretary approve acquisition of a fractional interest?

This section, § 151.7 in the existing regulation, has been modified to clarify how its provisions are consistent with 25 U.S.C. 2216(c), a provision of the Indian Lands Consolidation Act. Section 2216(c) allows for mandatory

acquisitions of fractional interests of a parcel at least a portion of which was in trust or restricted status on November 7, 2000, and is located within a reservation. Tribal consultation commenters were concerned that existing § 151.6 requires use of the discretionary process for such acquisitions, in contravention of past practice and section 2216(c). We assure commenters this is not the case; where section 2216(c) provides for mandatory acquisitions of fractional interests, the Department will continue to employ that statutory authority. However, where a fractional interest is off-reservation or trust or restricted status of another fractional interest in the same parcel did not exist on November 7, 2000, section 2216(c) does not provide authority for mandatory trust acquisitions and, thus, the Department must typically rely on the discretionary acquisition authority provided by the IRA and developed in these regulations. Consistent clarifying language has been added to the introduction of this section.

The proposed revision also replaces the term ''buyer'' with ''applicant.'' The term ''buyer'' is inapposite here; the individual or tribe is not typically buying any property, but rather applying to the Department to take the individual or tribe's fractional interest into trust for the individual or tribe's benefit.

G. Section 151.7 Is tribal consent required for nonmember acquisitions?

No changes are proposed to this section, numbered in the existing regulations as § 151.8.

H. Section 151.8 What documentation is included in a trust acquisition package?

This section expands substantially upon existing § 151.9, ''Requests for approval of acquisitions.'' The new section describes all the pieces of information necessary for the Department to assemble a complete trust acquisition package. Once a complete package is assembled, the proposed rule requires the Department to notify the applicant and then make a decision on the application within 120 days. Many tribal consultation commenters were concerned that no timing deadline was applied to the Department's responsibility to notify applicants of a complete acquisition package; therefore, this proposed revision requires such notification within 30 days.

Tribal consultation commenters also pointed out that this section may be confusing in that some pieces of a complete application package are provided by the applicant, while some are developed by the Department. The following chart clarifies how the Department and applicants work together to develop a complete application package.

Paragraph No.	Applicant contribution	Department contribution
Section 151.8(a)(1)	A signed letter from the tribal government supported by a tribal resolution or other act, or if an individual applicant, a signed letter.	None.
Section 151.8(a)(2)	Documentation from the applicant explaining purpose, and if an individual, need.	No Department contribution is needed to complete this component of the package. Rather, the Department will consider this information in coming to a decision.
Section 151.8(a)(3)	An aliquot legal description of the land and a map, or a metes and bounds land description and survey.	Concurrence that the description is legally sufficient.
Section 151.8(a)(4)	Information, or permission to access the land to gather such information, allowing the Department to comply with NEPA and 602 DM 2 regarding hazardous substances.	The Department will develop or adopt and complete NEPA analyses, including any required public process, and develop or adopt Phase I and Phase II Environmental Site Assessments produced under 602 DM 2.
Section 151.8(a)(5)	Evidence of marketable title	Preliminary Title Opinion
Section 151.8(a)(6)	None (applicant replies to comment letters are invited but not required for a complete acquisition package).	Notification letters to state and local governments and any response letters.
Section 151.8(a)(7)	Statement that any existing encumbrances on title will not interfere with the applicant's intended use.	None.
Section 151.8(a)(8)	None unless warranted by specific application	None unless warranted by specific application.

Regarding the requirement in § 151.8(a)(3) that the Department concur that a description is legally sufficient, many commenters were concerned that this adds a novel requirement to the land into trust process that may present obstacles. The BIA clarifies that concurrence with the land description presented by the applicant was and has always been a necessary part of the acquisition process. The BIA has always reviewed land descriptions to ensure they are accurate, that the parcel ''closes,'' and that, generally, the description describes with sufficient specificity what land is to be acquired. It is listed in new § 151.8 primarily to be comprehensive in the requirements for a complete acquisition package. Without such a provision, a flawed or otherwise insufficient land description could be construed as completing an acquisition package, forcing the Department to deny a request if not resolved before the 120-day deadline.

I. Section 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?

This section is the first of four sections providing the process for the Secretary's consideration of different types of acquisition applications based on the location of the subject land related to an Indian reservation or, in the case of initial Indian acquisitions, the fact that the tribe has no land currently in trust.

The on-reservation acquisition process has been simplified and designed to result in faster acquisitions in several ways. First, under paragraph (a), the Secretary is no longer required to consider the need for a tribal government's acquisition, the impact on state and local government tax rolls, and jurisdictional problems or conflicts of land use which may arise. Given that the subject land is within an Indian reservation set aside by the United States Government for the use and welfare of a tribe and based on the long experience of BIA in processing such applications and then administering land placed into trust, these considerations are not necessary.

We note that some commenters wished to eliminate the purpose criterion in paragraph (a) as well. Because an understanding of purpose is necessary to comply with the National Environmental Policy Act (NEPA) and to support the approach described in

paragraph (b), BIA is retaining this criterion.

Second, under paragraph (b), the Secretary will apply great weight to applications pursuing certain important purposes for tribal welfare, including, for instance, the need to protect tribal homelands. This approach recognizes and incorporates the Secretary's policy to support acquisition of land in trust for the benefit of tribes. In applying great weight, the Secretary will expressly consider and closely scrutinize the importance of the listed tribal purposes for land acquisition, and in the holistic consideration applied to land into trust acquisitions under the discretionary authority of the IRA, if reaching a disapproval decision, explain in detail why an acquisition for such purposes should not be approved.

Third, under paragraph (c), the Secretary will now apply a presumption of approval for on-reservation acquisitions. Given that the subject land is within an Indian reservation set aside by the United States Government for the use and welfare of a tribe and given the long history of such lands being removed from tribal ownership through improper sale or the Government's efforts to allot land originally held by the tribal government, a presumption of approval restoring reservation lands to trust status is appropriate and consistent with the proposed rule's policy on land into trust acquisitions.

Fourth, under paragraph (d), while the Secretary will notify state and local governments of a request to have land acquired in trust, the Secretary will no longer invite comment regarding on-reservation acquisitions.

J. Section 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?

The process for approving acquisitions contiguous to an Indian reservation has also been simplified and designed to result in faster review and decision-making. Paragraphs (a) through (c) are the same for contiguous and on-reservation acquisitions. Under paragraph (a), the Secretary is no longer required to consider the need for a tribal government's acquisition. Under paragraph (b), granting great weight to important tribal purposes will be applied. The Secretary also presumes, based on decades of experience in acquiring and administering contiguous trust lands, that the tribal community will benefit from the acquisition. Under paragraph (c), the Secretary will now apply a presumption of approval for on-reservation acquisitions. Given that the subject land is contiguous to an Indian reservation set aside by the United States Government for the use and welfare of a tribe, and would, after acquisition, form a contiguous parcel of the tribal nation, and based on the long experience of BIA in processing such applications and then administering land placed into trust, these considerations applied under the existing regulations are warranted. However, the proposed rule retains notice and an invitation to state and local governments to comment on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If such comments are received, the Secretary will consider them in her holistic analysis of the application. If no such comments are received, no consideration of these factors is required by the proposed rule.

Section 151.11 How will the Secretary evaluate a request involving land outside the boundaries of an Indian reservation?

Off-reservation acquisitions have been streamlined and designed to result in faster review and decision-making through the same reductions in review criteria described for on-reservation and contiguous acquisitions appearing in paragraph (a), and by applying the same great weight standard to important tribal purposes in new paragraph (b).

In addition, existing paragraph (b) applied a ''bungee cord'' approach, increasing the difficulty of approving an acquisition as distance from a tribe's reservation increased. The proposed rule abandons this approach, providing in new paragraph (c) that the Secretary presumes community benefits without regard to distance of the land from a tribe's reservation boundaries or trust lands. This understanding fits with the BIA's long experience in implementing the land into trust authorities under the IRA. Where a tribe takes off-reservation land into trust, that land nearly always serves an important economic, cultural, self-determination, or sovereignty purpose that supports tribal welfare. Tribal governments are rational actors that make acquisition decisions carefully based on available resources, planning, and purposes valued by the tribe. Accordingly, the Secretary will no longer apply a limiting understanding of distance from a tribal reservation, but will instead consider the location of the land in her holistic analysis of the application as she considers comments received from state and local governments.

K. Section 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?

This new section is designed to support and speed review and decision-making for acquisitions for tribes which do not currently have land in trust. In the past, initial Indian acquisitions would have been processed under the existing rule's off-reservation provisions. The proposed rule removes any consideration of the location of the land, except if such consideration is necessary given state and local comments, while also providing the reduced criteria for analysis in paragraph (a) and great weight granted to important purposes in paragraph (b). The proposed rule also establishes a presumption of approval for such requests in paragraph (c).

L. Section 151.13 How will the Secretary act on requests?

Minor clarifying changes to language were made in this section, including the use of ''Office of the Secretary'' rather than ''Secretary'' in paragraphs (c) and (d). Because this rule uses the defined term *Secretary* in its inclusive sense to mean all Department staff with delegated authority from the Secretary, here in § 151.12 where we refer to the unusual instance where the Secretary herself and her immediate office have taken over review of an application, we specify that circumstance by using ''Office of the Secretary.''

In addition, the proposed rule adds new § 151.15, regarding environmental review, to the steps that occur after a decision to take land into trust but before signature on the acceptance of conveyance document, described in paragraph (c)(2)(iii). This change is explained in detail below regarding the new § 151.15.

N. Section 151.14 How will the Secretary review title?

Two significant changes were made to the Secretary's title review process. First, our understanding is that in certain jurisdictions, including California, many title insurance companies decline to provide abstracts of title to tribal applicants. This market failure has created substantial obstacles for such applicants to bring land into trust. New paragraph (a)(2)(ii) is designed to address that issue by allowing applicants who cannot obtain an abstract of title to instead provide evidence of a title insurance company's declination, and a policy of title insurance less than five years old. In such cases the Secretary shall accept the applicant's preliminary title report in

place of an abstract of title as sufficient proof of good title under this section. Evidence of declination may be provided as a letter or email from the applicant's title insurance company declining to provide an abstract based on their business practices.

Second, in paragraph (b) the proposed rule allows the Secretary to seek additional action, if necessary, to address liens, encumbrances, or infirmities on title. The existing rule mandates disapproval if the Secretary determines title is unmarketable. The new rule makes this choice discretionary by replacing ''shall'' with ''may.'' While we expect the Department will need to disapprove if title is so deficient as to be unmarketable, the Secretary retains discretion here.

We note also that many tribal consultation commenters were concerned that encumbrances on the land which cannot be conveniently eliminated may prevent acquisition in trust. We clarify here that the Department may accept, in its discretion, some encumbrances on title and, should those encumbrances have the potential to impose costs in the future, the Department may enter into indemnification agreements with the applicant to facilitate the processing of fee-to-trust applications. Under the Checklist for Solicitor's Office Review of Fee-to-Trust Applications, issued by Solicitor Tompkins on January 5, 2017, an indemnification agreement between the BIA and a Tribal applicant to address a responsibility that runs with the land may be appropriate if the Tribal applicant is willing to enter into the indemnification agreement, the risk of liability for the responsibility is low, and the indemnification agreement is the only device that will allow the Department to continue processing the land into trust application. The Department has completed many such agreements and is willing to consider them whenever necessary to further an acquisition.

O. Section 151.15 How will the Secretary conduct a review of environmental conditions?

New § 151.15 covers the Department's environmental responsibilities under NEPA and the Departmental Manual at 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. Paragraph (a) simply states that the Department will comply with NEPA; no changes to BIA's practices are created through this paragraph. Paragraph (b) creates a new process in relation to 602 DM 2. That Departmental policy helps ensure that the Department does not acquire land that has been contaminated by hazardous substances, or that if it does acquire such land unknowingly, its due diligence in examining the property will ensure an innocent landowner defense to liability under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

The innocent landowner defense is only available where environmental site assessments developed pursuant to 602 DM 2 are performed or updated within 180 days of an acquisition. Under the existing regulations, many applicants have, therefore, needed to continually update their environmental site assessments while waiting for a decision on their application. Environmental consultant fees in performing this work added significantly to the cost of an acquisition. To address this problem, the proposed revisions anticipate a maximum of two environmental site assessments. One assessment should be prepared to develop a complete application package. Section 151.15(b) provides that, if this assessment will be more than 180 days old at the time of acquisition and, thus, an update is needed, then a single additional update may be performed after the Secretary issues her notice of decision approving the acquisition, but before the acceptance of conveyance document is signed. Based on lengthy experience in such acquisitions, if no recognized environmental conditions are identified in the first environmental site assessment, the chances are low that any such conditions will have emerged by the time of acceptance. Repeated updates are, therefore, an unnecessary expense for the applicant that will be avoided through new § 151.15(b). We note that § 151.15(b) states that this single additional update ''may'' be required by the Secretary; we use the term ''may'' because if the original environmental site assessment was performed less than six months before the acceptance of conveyance, there is no need to perform an update.

P. Section 151.16 How is formalization of acceptance and trust status attained?

Proposed § 151.16 explains in greater detail how the final process of accepting land into trust occurs and when. This section replaces existing § 151.14 and expands on its description of formalization of acceptance.

In brief, this section explains that after all procedural steps are completed, including notice of intent to acquire the land in trust, title review, environmental review, and the expiration of the appeal period, the Secretary will sign an instrument of conveyance. That signature places the land into trust for the benefit of the applicant.

Q. Section 151.17 What effect does this part have on pending requests and final agency decisions already issued?

Paragraph (a) of proposed § 151.17 addresses pending applications, offering a choice to applicants. By default, the Department will continue processing such applications under the existing regulations, with the understanding that altering the applicable applications midstream might be an unnecessary disruption, especially for applications that are near the end of the process or awaiting decision.

However, if an applicant wishes to apply the new regulations to its pending application, the applicant may do so by informing us of their choice, with the single exception that the 120-day timeline created in new § 151.8(b)(2) will not apply. Given the number of pending applications before the Department, if a large number of such applications were placed at once under the 120-day timeline, the volume could potentially cause serious problems for agency decision-making.

Paragraph (b) explains that any decisions already made under the existing regulations are not altered by the new regulation.

V. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is significant.

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

B. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not

have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It would not change current funding requirements and would not impose any economic effects on small governmental entities because it makes no change to the status quo.

C. Congressional Review Act (CRA)

This rule is not a major rule under 5 U.S.C. 804(2). This rule:

(a) Would not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act of 1995

This rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule would not have a significant or unique effect on State, local, or tribal governments or the private sector because this rule affects only individual Indians and tribal governments that petition the Department to take land into trust for their benefit. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule would not affect a taking of private property or otherwise have taking implications under E.O. 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

The Department will conduct two virtual session, one in-person consultation, and will accept oral and written comments. The consultations sessions will be open to tribal leadership and representatives of federally recognized Indian Tribes and Alaska Native Corporations.

- *In-Person Session:* The in-person consultation will be held on January 13, 2023, from 9 a.m. to 12 p.m. MST, at the BLM National Training Center (NTC), 9828 N 31st Ave. Phoenix, AZ 85051.
- *1st Virtual Session:* The first virtual consultation session will be held on January 19, 2023, from 1 p.m. to 4 p.m. EST. Please visit *https://www.zoomgov.com/meeting/register/vJIsd-2qrjwiH2bVXpLvS2VPUZESt2HgtKk* to register in advance.
- *2nd Virtual Session:* The second virtual consultation will be held on January 30, 2023, from 2 p.m. to 5 p.m. EST. Please visit *https://www.zoomgov.com/meeting/register/vJIsduGtqzgtE1hw9EIFrDf3-X_1gy5wGR0* to register in advance.
- *Comment Deadline:* Please see **DATES** and **ADDRESSES** for submission instructions.

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in E.O. 13175 and have hosted extensive consultation with federally recognized Indian Tribes in preparation of this proposed rule, including through a Dear Tribal Leader letter delivered to every federally-recognized tribe in the country, and through three consultation sessions held on May 9, 13, and 23, 2022.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) is not required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

J. National Environmental Policy Act (NEPA)

This rule would not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information see 43 CFR 46.210(i).) We have also determined that the rule would not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Energy Effects (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(l)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, and so forth.

M. Public Availability of Comments

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.

List of Subjects in 25 CFR Part 151

Administrative practice and procedure, Indians, Indians—land acquisition, Indians—law, Indians—tribal government.

■ For the reasons stated in the preamble, the Department of the Interior, Bureau

of Indian Affairs, proposes to revise 25 CFR part 151 to read as follows:

PART 151—LAND ACQUISITIONS

Sec.
151.1 What is the purpose of this part?
151.2 How are key terms defined?
151.3 What is the Secretary's land acquisition policy?
151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?
151.5 May the Secretary acquire land in trust status by exchange?
151.6 May the Secretary approve acquisition of a fractional interest?
151.7 Is tribal consent required for nonmember acquisitions?
151.8 What documentation is included in a trust acquisition package?
151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?
151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?
151.11 How will the Secretary evaluate a request involving land outside the boundaries of an Indian reservation?
151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?
151.13 How will the Secretary act on requests?
151.14 How will the Secretary review title?
151.15 How will the Secretary conduct a review of environmental conditions?
151.16 How is formalization of acceptance and trust status attained?
151.17 What effect does this part have on pending requests and final agency decisions already issued?

Authority: R.S. 161: 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967, as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d–10, 1466, 1495, and other authorizing acts.

§ 151.1 What is the purpose of this part?

This part sets forth the authorities, policies, and procedures governing the acquisition of land by the United States in trust status for individual Indians and tribes. This part does not cover acquisition of land by individual Indians and tribes in fee simple status even though such land may, by operation of law, be held in restricted status following acquisition; acquisition of land mandated by Congress or a Federal court; acquisition of land in trust status by inheritance or escheat; or transfers of land into restricted fee status unless required by Federal law.

§ 151.2 How are key terms defined?

Contiguous means two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or a public road or right-of-way and includes parcels that touch at a point.

Fee interest means an interest in land that is owned in unrestricted fee simple status and is, thus, freely alienable by the fee owner.

Fractionated tract means a tract of Indian land owned in common by Indian landowners and/or fee owners holding undivided interests therein.

Indian land means any tract in which any interest in the surface estate is owned by a tribe or individual Indian in trust or restricted status and includes both individually owned Indian land and tribal land.

Indian landowner means a tribe or individual Indian who owns an interest in Indian land.

Indian reservation or *tribe's reservation* means, unless another definition is required by Federal law authorizing a particular trust acquisition, that area of land over which the tribe is recognized by the United States as having governmental jurisdiction, except that, in the State of Oklahoma wherever historic reservations have not yet been reaffirmed, or where there has been a final judicial determination that a reservation has been disestablished or diminished, *Indian reservation* means that area of land constituting the former reservation of the tribe as defined by the Secretary.

Individual Indian means:

(1) Any person who is an enrolled member of a tribe;

(2) Any person who is a descendent of such a member and said descendant was, on June 1, 1934, physically residing on a federally recognized Indian reservation; or

(3) Any other person possessing a total of one-half or more degree Indian blood of a tribe.

Initial Indian acquisition means an acquisition of land in trust status for the benefit of a tribe that has no land currently held in trust status.

Interested party means a person or other entity whose legally protected interests would be affected by a decision.

Land means real property or any interest therein.

Marketable title means title that a reasonable buyer would accept because it appears to lack substantial defect and to cover the entire property that the seller has purported to sell.

Preliminary Title Opinion means an opinion issued by the Office of the Solicitor that reviews the existing status of title, examining both record and non-record title evidence and any encumbrances or liens against the land, and sets forth requirements to be met before acquiring land in trust status.

Preliminary title report means a report prepared by a title company prior to issuing a policy of title insurance that shows the ownership of a specific parcel of land together with the liens and encumbrances thereon.

Restricted land or *land in restricted status* means land the title to which is held by an individual Indian or a tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary due to limitations contained in the conveyance instrument pursuant to Federal law or because a Federal law directly imposes such limitations.

Secretary means the Secretary of the Interior or authorized representative.

Tribe means any Indian tribe listed under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130). For purposes of acquisitions made under the authority of 25 U.S.C. 5136 and 5138, or other statutory authority which specifically authorizes trust acquisitions for such corporations, *tribe* also means a corporation chartered under section 17 of the Act of June 18, 1934 (25 U.S.C. 5124) or section 3 of the Act of June 26, 1936 (25 U.S.C. 5203).

Trust land or *land in trust status* means land the title to which is held in trust by the United States for an individual Indian or a tribe.

Undivided interest means a fractional share of ownership in an estate of Indian land where the estate is owned in common with other Indian landowners or fee owners.

§ 151.3 What is the Secretary's land acquisition policy?

It is the Secretary's policy to acquire land in trust status through direct acquisition or transfer for individual Indians and tribes to strengthen self-determination and sovereignty, ensure that every tribe has protected homelands where its citizens can maintain their tribal existence and way of life, and consolidate land ownership to strengthen tribal governance over reservation lands and reduce checkerboarding. The Secretary retains discretion whether to acquire land in trust status where discretion is granted under Federal law.

(a) Land not held in trust or restricted status may only be acquired for an individual Indian or a tribe in trust status when the acquisition is authorized by Federal law. No

acquisition of land in trust status under this part, including a transfer of land already held in trust or restricted status, shall be valid unless the acquisition is approved by the Secretary.

(b) Subject to the provisions of Federal law authorizing trust land acquisitions, the Secretary may acquire land for a tribe in trust status:

(1) When the land is located within the exterior boundaries of the tribe's reservation or contiguous thereto;

(2) When the tribe already owns an interest in the land; or

(3) When the Secretary determines that the acquisition of the land will further tribal interests by establishing a tribal land base or protecting tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, reducing checkerboarding, acquiring land lost through allotment, protecting treaty or subsistence rights, or facilitating tribal self-determination, economic development, Indian housing, or for other reasons the Secretary determines will support tribal welfare.

(c) Subject to the provisions contained in Federal law which authorize land acquisitions or holding land in trust or restricted status, the Secretary may acquire land in trust status for an individual Indian:

(1) When the land is located within the exterior boundaries of an Indian reservation, or contiguous thereto; or

(2) When the land is already in trust or restricted status.

§ 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?

(a) In determining whether a tribe was under Federal jurisdiction in 1934 within the meaning of section 19 of the Indian Reorganization Act of June 18, 1934 (IRA) (25 U.S.C. 5129), and is, thus, eligible for trust acquisition under section 5 of the IRA (25 U.S.C. 5108), the Secretary shall consider evidence of Federal jurisdiction in the manner provided in paragraphs (a)(1) through (4) of this section.

(1) Conclusive evidence establishes in and of itself both that a tribe was placed under Federal jurisdiction and that this jurisdiction persisted in 1934. If such evidence exists, no further analysis under this section is needed. The following is conclusive evidence that a tribe was under Federal jurisdiction in 1934:

(i) A vote under section 18 of the IRA (25 U.S.C. 5125) to ratify or reject the IRA as recorded in *Ten Years of Tribal Government Under I.R.A.,* Theodore Haas, United States Indian Service (Jan. 1947) (Haas List) or other Federal Government document;

(ii) Secretarial approval of a tribal constitution under section 16 of the IRA as recorded in the Haas List or other Federal Government document;

(iii) Secretarial approval of a charter of incorporation issued to a tribe under section 17 of the IRA as recorded in the Haas List or other Federal Government document;

(iv) An Executive order for a specific tribe that was still in effect in 1934;

(v) Treaties to which a tribe is a party, ratified by the United States and still in effect as to that party in 1934;

(vi) Continuing existence in 1934 or later of treaty rights guaranteed by a treaty ratified by the United States; or

(vii) Other forms of evidence deemed conclusive by the Secretary.

(2) Presumptive evidence is indicative that a tribe was placed under Federal jurisdiction and may indicate that such jurisdiction persisted in 1934. In the absence of evidence indicating that Federal jurisdiction did not exist or did not exist in 1934, presumptive evidence satisfies the analysis under this section. The following is presumptive evidence that a tribe was under Federal jurisdiction in 1934:

(i) Evidence of treaty negotiations or evidence a tribe signed a treaty with the United States whether or not such treaty was ratified by Congress;

(ii) Listing of a tribe in the Department of the Interior's 1934 Indian Population Report;

(iii) Evidence that the United States took efforts to acquire lands on behalf of a tribe in the years leading up to the passage of the IRA;

(iv) Inclusion in Volume V of Charles J. Kappler's *Indian Affairs, Laws and Treaties;*

(v) Federal legislation for a specific tribe, including termination legislation enacted after 1934, which acknowledges the existence of a government-to-government relationship with a tribe in or before 1934;

(vi) When a tribe is recognized under the process in part 83 of this chapter with a finding that the tribe has been identified as an American Indian entity on a substantially continuous basis since 1900 pursuant to § 83.11(a) of this chapter; or

(vii) Other forms of evidence deemed presumptive by the Secretary.

(3) In the absence of conclusive or presumptive evidence, the Secretary may find that a tribe was under Federal jurisdiction in 1934 when the United States in 1934 or at some point in the tribe's history prior to 1934, took an action or series of actions that, when viewed in concert through a course of dealings or other relevant acts on behalf of a tribe, or in some instances tribal members, establishes or generally reflects Federal obligations, or duties, responsibility for or authority over the tribe, and that such jurisdictional status remained intact in 1934.

(i) Examples of Federal actions that exhibit probative evidence of Federal jurisdiction may include but are not limited to, the Department of the Interior's acquisition of land for a tribe in implementing the Indian Reorganization Act of 1934, the attendance of tribal members at Bureau of Indian Affairs operated schools, Federal decisions regarding whether to remove or not remove a tribe from its homelands, the inclusion of a tribe in Federal reports and surveys, the inclusion of a tribe or tribal members in Federal census records prepared by the Office of Indian Affairs, and the provision of health and social services to a tribe or tribal members.

(ii) [Reserved]

(4) Evidence of executive officials disavowing legal responsibility for a tribe in certain instances cannot, in itself, revoke Federal jurisdiction over a tribe without express congressional action.

(b) For some tribes, Congress enacted legislation after 1934 making the IRA applicable to the tribe. The existence of such legislation making the IRA and its trust acquisition provisions applicable to a tribe eliminates the need to determine whether a tribe was under Federal jurisdiction in 1934.

(c) In order to be eligible for trust acquisitions under section 5 of the IRA, no additional ''under Federal jurisdiction'' analysis is required under this part for tribes for which the Office of the Solicitor has previously issued an analysis finding the tribe was under Federal jurisdiction.

(d) Land may be acquired in trust status for an individual Indian or a tribe in the State of Oklahoma under section 5 of the IRA if the acquisition comes within the terms of this part. This authority is in addition to all other statutory authority for such an acquisition.

(e) The Secretary may also acquire land in trust status for an individual Indian or a tribe under this part when specifically authorized by Federal law other than section 5 of the IRA, subject to any limitations contained in that Federal law.

§ 151.5 May the Secretary acquire land in trust status by exchange?

The Secretary may acquire land in trust status on behalf of an individual

Indian or tribe by exchange under this part if authorized by Federal law and within the terms of this part. The disposal aspects of an exchange are governed by part 152 of this title.

§ 151.6 May the Secretary approve acquisition of a fractional interest?

Where the mandatory acquisition process provided under 25 U.S.C. 2216(c) is not applicable to a fractional interest acquisition, *e.g.,* where the acquisition proposed is located outside the boundaries of an Indian reservation, this section applies to discretionary acquisitions of fractional interests. The Secretary may approve the acquisition of a fractional interest in a fractionated tract in trust status by an individual Indian or a tribe only if:

(a) The applicant already owns a fractional interest in the same parcel of land;

(b) The interest being acquired by the applicant is in fee status;

(c) The applicant offers to purchase the remaining undivided trust or restricted interests in the parcel at not less than their fair market value;

(d) There is a specific law which grants to the applicant the right to purchase an undivided interest or interests in trust or restricted land without offering to purchase all such interests; or

(e) The owner or owners of more than fifty percent of the remaining trust or restricted interests in the parcel consent in writing to the acquisition by the applicant.

§ 151.7 Is tribal consent required for nonmember acquisitions?

An individual Indian or tribe may acquire land in trust status on an Indian reservation other than its own only when the governing body of the tribe having jurisdiction over such reservation consents in writing to the acquisition; provided, that such consent shall not be required if the individual Indian or the tribe already owns an undivided trust or restricted interest in the parcel of land to be acquired.

§ 151.8 What documentation is included in a trust acquisition package?

An individual Indian or tribe seeking to acquire land in trust status must file a written request, *i.e.,* application, with the Secretary. The request need not be in any special form but must set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition fulfills the requirements of this part. The Secretary will prepare the acquisition package using information provided by the applicant and assessments developed by the Secretary, as described in paragraphs (a) and (b) of this section:

(a) A complete acquisition package consists of the following:

(1) The applicant's request that the land be acquired in trust, as follows:

(i) If the applicant is an Indian tribe, the tribe's written request must be a signed tribal letter for trust acquisition supported by a tribal resolution or other act of the governing body of the tribe; and

(ii) If the applicant is an individual Indian, the individual's written request must be a signed letter requesting trust status;

(2) Documentation from the applicant providing the information assessed by the Secretary under § 151.9(a)(2) and (3), § 151.10(a)(2) and (3), § 151.11(a)(2) and (3), or § 151.12(a)(2) and (3), depending on which section applies to the application;

(3) A description of the land as follows:

(i) An aliquot part legal description of the land and a map from the applicant, including a statement of the estate to be acquired, *e.g.,* all surface and mineral rights, surface rights only, surface rights and a portion of the mineral rights, etc.; or

(ii) A metes and bounds land description and survey if the land cannot be described by an aliquot legal description. The survey may be completed by a land surveyor registered in the jurisdiction in which the land is located when the land being acquired is fee simple land; and

(iii) Concurrence by the Secretary that the legal description or survey is sufficient;

(4)(i) Information from the applicant that allows the Secretary to comply with the National Environmental Policy Act and 602 Departmental Manual (DM) 2, Land Acquisitions: Hazardous Substances Determinations pursuant to § 151.15; and

(ii) An acquisition package is not complete until the public review period of a final environmental impact statement or, where appropriate, a final environmental assessment has concluded, or the categorical exclusion documentation is complete;

(5) Title evidence submitted by the applicant, and a completed Preliminary Title Opinion prepared by the Secretary based on such evidence;

(6) Notification letters prepared and sent by the Secretary pursuant to § 151.9, § 151.10, § 151.11, or § 151.12, including any associated responses where requested by the Secretary;

(7) Statement from the applicant that any existing covenants, easements, or restrictions of record will not interfere with the applicant's intended use of the land; and

(8) Any additional information or action requested by the Secretary, in writing, if warranted by the specific application.

(b) After the Bureau of Indian Affairs is in possession of a complete acquisition package, we will:

(1) Notify the applicant within 30 calendar days in writing that the acquisition package is complete; and

(2) Issue a decision on a request within 120 calendar days after issuance of the notice of a complete acquisition package.

§ 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?

(a) The Secretary will consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located within the boundaries of an Indian reservation.

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority, as identified in § 151.4;

(2) If the applicant is an individual Indian, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

(3) The purposes for which the land will be used; and

(4) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to any of the following in accordance with § 151.3: if the acquisition will further tribal interests by establishing a land base or protecting tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, acquiring land lost through allotment, reducing checkerboarding, protecting treaty or subsistence rights, or facilitating self-determination, economic development, or Indian housing.

(c) When reviewing a tribe's request for land within the boundaries of an Indian reservation, the Secretary presumes that the acquisition will be approved.

(d) Upon receipt of a written request to have lands acquired in trust within the boundaries of an Indian reservation,

the Secretary will notify the state and local governments with regulatory jurisdiction over the land to be acquired of the applicant's request.

§ 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?

(a) The Secretary will consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located contiguous to an Indian reservation:

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority, as identified in § 151.4;

(2) If the applicant is an individual Indian, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

(3) The purposes for which the land will be used; and

(4) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to any of the following in accordance with § 151.3: if the acquisition will further tribal interests by establishing a land base or protecting tribal homelands, protect sacred sites or cultural resources and practices, establish or maintain conservation or environmental mitigation areas, consolidate land ownership, acquire land lost through allotment, reduce checkerboarding, protect treaty or subsistence rights, or facilitate self-determination, economic development, or Indian housing.

(c) When reviewing a tribe's request for land is located contiguous to an Indian reservation, the Secretary presumes that the acquisition will be approved.

(d) Upon receipt of a written request to have lands contiguous to an Indian reservation acquired in trust status, the Secretary will notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice will inform the state or local government that each will be given 30 calendar days in which to provide written comments on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If the state or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the tribal community will benefit from the acquisition.

§ 151.11 How will the Secretary evaluate a request involving land outside the boundaries of an Indian reservation?

(a) The Secretary shall consider the following requirements in evaluating requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to an Indian reservation:

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority, as identified in § 151.4;

(2) If the applicant is an individual Indian and the land is already held in trust or restricted status, the need for additional land, the amount of trust or restricted land already by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

(3) The purposes for which the land will be used; and

(4) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to any of the following in accordance with § 151.3: if the acquisition will further the establishment of a land base or protect tribal homelands, protect sacred sites or cultural resources and practices, establish or maintain conservation or environmental mitigation areas, consolidate land ownership, acquire land lost through allotment, reduce checkerboarding, protect treaty or subsistence rights, or facilitate self-determination, economic development, or Indian housing.

(c) Upon receipt of a written request to have lands outside the boundaries of an Indian reservation acquired in trust status, the Secretary will notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice will inform the state or local government that each will be given 30 calendar days in which to provide written comments on the acquisition's potential impact on regulatory jurisdiction, real property taxes and special assessments. If the state or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land. The Secretary presumes that the tribal community will benefit from the acquisition without regard to distance of the land from a tribe's reservation boundaries or trust lands.

§ 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?

(a) The Secretary will consider the criteria in this section when evaluating requests for the acquisition of land in trust status when a tribe does not have a reservation or land held in trust.

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority, as identified in § 151.4;

(2) The purposes for which the land will be used; and

(3) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to any of the following in accordance with § 151.3: if the acquisition will further tribal interests by establishing a land base or protecting tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, acquiring land lost through allotment, reducing checkerboarding, protecting treaty or subsistence rights, or facilitating self-determination, economic development, or Indian housing.

(c) When reviewing a tribe's request for when a tribe does not have a reservation or land held in trust, the Secretary presumes that the acquisition will be approved.

(d) Upon receipt of a written request for land to be acquired in trust when a tribe does not have a reservation or land held in trust, the Secretary will notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice will inform the state or local government that each will be given 30 calendar days in which to provide written comments on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If the state or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a

reasonable time in which to reply if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land. The Secretary presumes that the tribal community will benefit from the acquisition.

§ 151.13 How will the Secretary act on requests?

(a) The Secretary shall review each request and may request any additional information or justification deemed necessary to reach a decision.

(b) The Secretary's decision to approve or deny a request shall be in writing and state the reasons for the decision.

(c) A decision made by the Office of the Secretary, or the Assistant Secretary—Indian Affairs pursuant to delegated authority, is a final agency action under 5 U.S.C. 704 upon issuance.

(1) If the Office of the Secretary or Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

(2) If the Office of the Secretary or Assistant Secretary approves the request, the Assistant Secretary shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly publish in the **Federal Register** notice of the decision to acquire land in trust status under this part; and

(iii) Immediately acquire the land in trust status under § 151.16 after the date such decision is issued and upon fulfillment of the requirements of §§ 151.14 and 151.15 and any other Department of the Interior requirements.

(d) A decision made by a Bureau of Indian Affairs official, rather than the Office of the Secretary or Assistant Secretary, pursuant to delegated authority is not a final agency action of the Department of the Interior under 5 U.S.C. 704 until administrative remedies are exhausted under part 2 of this chapter and under 43 CFR part 4, subpart D, or until the time for filing a notice of appeal has expired and no administrative appeal has been filed. Administrative appeals are governed by part 2 of this chapter and by 43 CFR part 4, subpart D.

(1) If the official denies the request, the official shall promptly provide the applicant with the decision and notification of the right to file an administrative appeal.

(2) If the official approves the request, the official shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly provide written notice of the decision and the right, if any, to file an administrative appeal of such decision:

(A) Interested parties who have made themselves known, in writing, to the official prior to the decision being made; and

(B) The state and local governments having regulatory jurisdiction over the land to be acquired;

(iii) Promptly publish a notice in a newspaper of general circulation serving the affected area of the decision and the right, if any, of interested parties who did not make themselves known, in writing, to the official to file an administrative appeal of the decision; and

(iv) Immediately acquire the land in trust status under § 151.16 upon expiration of the time for filing a notice of appeal or upon exhaustion of administrative remedies under part 2 of this chapter and under 43 CFR part 4, subpart D, and upon the fulfillment of the requirements of §§ 151.14 and 151.15 and any other Department of the Interior requirements.

(3) The administrative appeal period begins on:

(i) The date of receipt of written notice by the applicant or interested parties entitled to notice under paragraphs (d)(1) and (d)(2)(ii) of this section; or

(ii) The date of first publication of the notice for unknown interested parties under paragraph (d)(2)(iii) of this section, which shall be deemed receipt of the decision.

(4) Any party who wishes to seek judicial review of an official's decision must first exhaust administrative remedies under part 2 of this chapter and under 43 CFR part 4, subpart D.

§ 151.14 How will the Secretary review title?

(a) If the Secretary approves a request for the acquisition of land in trust status, the Secretary shall require the applicant to furnish title evidence as follows:

(1) The deed or other conveyance instrument providing evidence of the applicant's title or, if the applicant does not yet have title, the deed providing evidence of the transferor's title and a written agreement or affidavit from the transferor that title will be transferred to the United States on behalf of the applicant to complete the acquisition in trust status; and

(2) Either:

(i) A current title insurance commitment issued by a title company; or

(ii) The policy of title insurance issued by a title company to the applicant or current owner and an abstract of title issued by a title compact dating from the time of the policy of title insurance was issued to the applicant or current owner to the present. The Secretary will accept a preliminary title report prepared by a title company in place of an abstract of title for purposes of this paragraph (a)(2)(ii) if the applicant provides evidence that the title company will not issue an abstract of title based on practice in the local jurisdiction, and the policy of title insurance issued to the applicant or current owner is less than five years old.

(3) The applicant may choose to provide title evidence meeting the ''Standards for the Preparation of Title Evidence in Land Acquisitions by the United States'' in effect at the time of conveyance, in lieu of the evidence required by paragraph (a)(2) of this section.

(b) After reviewing title evidence, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities that the Secretary identified and may seek additional information or action from the applicant needed to address such issues. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to acceptance of the land in trust status if the Secretary determines that the liens, encumbrances, or infirmities make title to the land unmarketable.

§ 151.15 How will the Secretary conduct a review of environmental conditions?

(a) The Secretary shall comply with the requirements of the National Environmental Policy Act (NEPA) (43 U.S.C. 4321 *et seq.*), applicable Council on Environmental Quality regulations (40 CFR parts 1500 through 1508), and Department of the Interior regulations (43 CFR part 46) and guidance. The Secretary's compliance may require preparation of an environmental impact statement, an environmental assessment, a categorical exclusion, or other documentation that satisfies the requirements of NEPA.

(b) The Secretary shall comply with the terms of 602 DM 2, Land Acquisitions: Hazardous Substances Determinations, or its successor policy if replaced or renumbered, so long as such guidance remains in place and binding. If the Secretary approves a request for the acquisition of land in trust status, the Secretary may then require, before formalization of acceptance pursuant to § 151.16, that the applicant provide information updating a prior pre-acquisition environmental site assessment conducted under 602 DM 2.

(1) If no recognized environmental conditions and other environmental issues of concern are identified in the pre-acquisition environmental site assessment and all other requirements of this section are met, the Secretary shall acquire the land in trust.

(2) If recognized environmental conditions or other environmental issues of concern are identified in the pre-acquisition environmental site assessment, the Secretary shall notify the applicant and may seek additional information or action from the applicant to address such issues of concern. The Secretary may require the elimination of any such issues of concern prior to taking the land in trust status.

§ 151.16 How is formalization of acceptance and trust status attained?

(a) The Secretary will accept land in trust status by signing an instrument of conveyance. The Secretary will sign the instrument of conveyance after publication of a notice of intent to acquire the land in trust status pursuant to § 151.13(c)(2)(ii) or (d)(2)(ii) and (iii), the requirements of §§ 151.13, 151.4, and 151.15 have been met, and upon expiration of the time for filing a notice of appeal or upon exhaustion of administrative remedies under part 2 of this chapter and under 43 CFR part 4, subpart D.

(b) The land will attain trust status when the Secretary signs the instrument of conveyance.

§ 151.17 What effect does this part have on pending requests and final agency decisions already issued?

(a) Requests pending on [EFFECTIVE DATE OF FINAL RULE], will continue to be processed under 25 CFR part 151 revised April 1, 2022, unless the applicant requests in writing to proceed under this part. Upon receipt of such a request, the Secretary shall process the pending application under this part, except for § 151.8(b)(2).

(b) This part does not alter decisions of Bureau of Indian Affairs officials under appeal or final agency decisions made before [EFFECTIVE DATE OF FINAL RULE].

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–25735 Filed 12–2–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE–2022–0007]

Potomac River at the Naval Surface Warfare Center, Dahlgren Division, Dahlgren, Virginia; Danger Zone

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to amend its regulations for an existing danger zone in the waters of the Potomac River near Dahlgren, Virginia. The Naval Surface Warfare Center, Dahlgren Division (NSWCDD) operates research, development, testing, and evaluation ranges on the Potomac River using the danger zones as defined in the existing regulation. The NSWCDD range operations center controls Navy operations on the Potomac River Test Range. The purpose of this amendment is to expand the middle danger zone for ongoing infrared sensor testing for detection of airborne chemical or biological agent simulants, directed energy testing, and for operating manned or unmanned watercraft. This amendment will extend the legal authority to engage civilian watercraft for safe transit instructions in the Potomac River within the expanded middle danger zone.

DATES: Written comments must be submitted on or before January 4, 2023.

ADDRESSES: You may submit comments, identified by docket number COE–2022–0007, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov . Follow the instructions for submitting comments.

Email: david.b.olson@usace.army.mil. Include the docket number, COE–2022–0007 in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO–R (David B. Olson), 441 G Street NW, Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2022–0007. All comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *regulations.gov* or email. The *regulations.gov* website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and also include your contact information with any compact disk you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as 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.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Division, Washington, DC at 202–761–4922.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is proposing to amend its regulations at 33 CFR part 334 to modify an existing danger zone in the Potomac River for the Naval Surface Warfare Center, Dahlgren Division (NSWCDD) near Dahlgren, Virginia. In a memorandum dated April 27, 2022, the NSWCDD requested that the Corps modify section 334.230(a)(1)(ii) to expand the existing middle danger zone to ensure safe Navy operations on the Potomac River Test Range and to extend

the NSWCDD's legal authority to engage civilian watercraft for safe transit instructions in the Potomac River within the expanded middle danger zone. All vessels may transit the expanded middle danger zone area at the conclusion of hazardous operations without the permission of the Commander, NSWCDD and such agencies as they may designate.

Procedural Requirements

a. Regulatory Planning and Review. This proposed rule is not a ''significant regulatory action'' under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011) and it was not submitted to the Office of Management and Budget for review.

b. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 et seq. This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments).

This proposed rule has been reviewed under the Regulatory Flexibility Act. The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments). The expansion of the middle danger zone is necessary to protect public safety and satisfy the Navy's requirements for weapons training. Small entities can utilize navigable waters outside of the danger zone when the danger zone is activated. Small entities can use the navigable waters within the danger zone when it is inactive. Unless information is obtained to the contrary during the comment period, the Corps certifies that the proposed rule would have no significant economic impact on the public.

c. Review under the National Environmental Policy Act. Due to the administrative nature of this action and because there is no significant intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. Unfunded Mandates Act. This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

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

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted Areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR Part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Revise § 334.230(a)(1)(ii) to read as follows:

§ 334.230 Potomac River.

(a) * * *

(1) * * *

(i) * * *

(ii) *Middle zone.* Beginning approximately 140 yards south of the Governor Harry W. Nice Memorial/Senator Thomas ''Mac'' Middleton Bridge, extending from the Virginia shore at latitude 38°21′30.4″, longitude 77°0′53.2″ along a line parallel to the Bridge to latitude 38°21′45.6″, longitude 76°59′0″ a point near the Maryland shore; thence to latitude 38°20′5″, longitude 76°59′0″; thence to latitude 38°19′06″, longitude 76°57′06″ which point is about 3,300 yards east-southeast of Light 30; thence to Line of Fire Buoy O, about 1,150 yards southwest of Swan Point; thence to Line of Fire Buoy M, about 1,700 yards south of Potomac View; thence to Line of Fire Buoy K, about 1,400 yards southwesterly of the lower end of Cobb Island; thence to Buoy 14, abreast of St. Clements Island, thence southwest to a point near the northeast shore of Hollis Marsh at latitude 38°10′00″, longitude 76°45′22.4″; thence northwest to Line of Fire Buoy J, about 3,000 yards off Popes Creek, Virginia; thence to Line of Fire Buoy L, about 3,600 yards off Church Point; thence to Line of Fire Buoy N, about 900 yards off Colonial Beach; thence to Line of Fire Buoy P, about 1,000 yards off Bluff Point; thence northwest to latitude 38°17′54″, longitude 77°01′02″, a point of the Virginia shore on property of the Naval Support Facility Dahlgren, a distance of about 4,080 yards; thence north along the Potomac shore of Naval Surface Warfare Center, Dahlgren to Baber Point; thence west along the Upper Machodoc Creek shore of Naval Surface Warfare Center, Dahlgren to Howland Point at latitude 38°19′0.5″, longitude 77°03′23″; and thence northeast to latitude 38°19′18″, longitude 77°02′29″, a point on the Naval Surface Warfare Center, Dahlgren shore about 350 yards southeast of the base of the Navy recreational pier. Hazardous operations are normally conducted in this zone daily except Saturdays, Sundays, and national holidays. The datum for the coordinates for this zone is North American Datum of 1983 (NAD–1983).

* * * * *

Thomas P. Smith,

Chief, Operations and Regulatory Division.

[FR Doc. 2022–26368 Filed 12–2–22; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE–2022–0009]

Establishment of Three Danger Zones for the Naval Support Activity Annapolis, Annapolis, Maryland, in the Waters of Carr Creek and Whitehall Bay

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to establish three danger zones in the waters of Carr Creek and Whitehall Bay in the vicinity of the Naval Support Activity Annapolis. The establishment of the proposed danger zone in Carr Creek is necessary to enable safe operation of the United States Naval Academy firing range and to reflect the routine and periodic usage of the firing range for training sailors, midshipmen, and law enforcement personnel. The establishment of the two proposed danger zones in Whitehall Bay is necessary to enable the safe operation of the United States Naval Academy firing range and to reflect irregular and infrequent usage of the range for training sailors, midshipmen, and law enforcement personnel. The firing range faces Carr Creek and, during times of operation, may present a danger to vessels located in the areas of the proposed danger zones.

DATES: Written comments must be submitted on or before January 4, 2023.

ADDRESSES: You may submit comments, identified by docket number COE–2022–0009, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Email: david.b.olson@usace.army.mil. Include the docket number, COE–2022–0009, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO–R (David B. Olson), 441 G Street NW, Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2022–0009. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *regulations.gov* or email. The *regulations.gov* website is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and also include your contact information with any compact disk you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as 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.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Division, Washington, DC at 202–761–4922.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is proposing amendments to its regulations at 33 CFR part 334 for the establishment of three danger zones in the waters of Carr Creek and Whitehall Bay near Annapolis, Maryland. In a memorandum dated June 10, 2022, the Naval Support Activity Annapolis requested that the Corps establish these three danger zones. The proposed danger zones are necessary to ensure the safe operation of the United States Naval Academy firing range.

The proposed danger zone in Carr Creek is needed to enable the safe operation of the United States Naval Academy firing range. The firing range is used for training sailors, midshipmen, and law enforcement personnel on an irregular daily schedule, including weekends. The firing range faces Carr Creek and, during times of operation, may present a danger to vessels located within the proposed danger zone. When firing is in progress, a flashing red light and warning sign at the boundary of the danger zone will warn persons, vessels, or other watercraft of danger.

The two proposed danger zones in Whitehall Bay are also needed to enable the safe operation of the United States Naval Academy firing range. During operation of the firing range in a manner that affects these proposed danger zones, persons, vessels, or other watercraft will be notified of closure of these two danger zones by a Local Notice to Mariners.

Procedural Requirements

a. *Regulatory Planning and Review.* This proposed rule is not a ''significant regulatory action'' under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011) and it was not submitted to the Office of Management and Budget for review.

b. *Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 et seq. This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354).* The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments).

The Corps certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed danger zones are necessary for the safe operation of the United States Naval Academy firing range and the safety of persons, vessels, or other watercraft in the vicinity of Carr Creek and Whitehall Bay. When the firing range is in operational use, small entities can utilize navigable waters outside of the three danger zones. Small entities that need to transit the danger zones may do so as long as the vessel

operator obtains permission from the Superintendent, U.S. Naval Academy or their designated representatives. This determination is based on the proposed rule governing the danger zones, including the ability for vessel operators to obtain permission from the Superintendent, U.S. Naval Academy or their designated representatives to transit the danger zones. Unless information is obtained to the contrary during the comment period, the Corps expects that the economic impact of the proposed danger zones would have practically no impact on the public, any anticipated navigational hazard or interference with existing waterway traffic. After considering the economic impacts of this danger zone regulation on small entities, I certify that this proposed rule would not have a significant impact on a substantial number of small entities.

c. *Review under the National Environmental Policy Act.* Due to the administrative nature of this action and because there is no significant intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. *Unfunded Mandates Act.* This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a federal private sector mandate and it is not subject to the requirements of either section 202 or section 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

e. *Congressional Review Act.* The Congressional Review Act, 5 U.S.C. 801 *et seq.,* 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 Congress and to the Comptroller General of the United States. The Corps will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This proposed rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.148 to read as follows:

§ 334.148 Carr Creek and Whitehall Bay, in vicinity of Naval Support Activity Annapolis, U.S. Naval Academy firing range danger zones.

(a) *The areas*—(1) *Danger zone #1.* All navigable waters of Carr Creek, as defined at part 329 of this chapter, north of the line drawn southeasterly from latitude 38°59′3″ N, longitude −76°27′35″ W to latitude 38°58′53″ N longitude –76°27′15″ W across the mouth of Carr Creek.

(2) *Danger zone #2.* Navigable waters of Whitehall Bay, as defined at part 329 of this chapter, within the area bounded by a line connecting the following coordinates: latitude 38°58′53″ N, longitude −76°26′57″ W; thence to latitude 38°58′37″ N, longitude −76°26′10″ W; thence to latitude 38°58′16″ N, longitude −76°26′28″ W; thence to latitude 38°58′45″ N, longitude −76°27′4″ W; and thence along the shoreline to the point of origin.

(3) *Danger zone #3.* Navigable waters of Whitehall Bay, as defined at part 329 of this chapter, within the area bounded by a line connecting the following coordinates: latitude 38°58′28″ N, longitude −76°26′17″ W; thence to latitude 38°58′14″ N, longitude −76°25′53″ W; thence to latitude 38°58′0″ N, longitude −76°26′9″ W; thence to latitude 38°58′16″ N, longitude −76°26′28″ W; thence to the point of origin.

(4) *Datum.* The datum for the coordinates in paragraphs (a)(1) through (3) of this section is North American Datum 1983 (NAD–83).

(b) *The regulations*—(1) *Danger zone #1.* (i) When firing is in progress, all persons, vessels, or other watercraft are prohibited from entering, transiting, drifting, dredging, or anchoring within the danger zone without the permission of the Superintendent, U.S. Naval Academy or their designated representatives.

(ii) When firing is in progress, a flashing red light and warning sign at the boundary of the danger zone will warn persons, vessels, or other watercraft of danger.

(2) *Danger zones #2 and #3.* (i) Prior to and during periods when firing is in progress, shore observers will be on duty, and/or the range will be patrolled by naval surface craft to warn persons, vessels, or other watercraft likely to be endangered. All persons, vessels, or other watercraft so warned shall vacate the applicable danger zone and are prohibited from entering, transiting, drifting, mooring, anchoring, and/or conducting any activity within that danger zone until the conclusion of firing practice without the permission of the Superintendent, U.S. Naval Academy or their designated representatives.

(ii) No firing will occur during hours of darkness or low visibility that would impede viewing of persons, vessels, or other watercraft by shore observers.

(iii) The Superintendent, U.S. Naval Academy is responsible for furnishing in advance the firing schedule for danger zones 2 and 3 to Commander, Fifth Coast Guard District, for publication in a Local Notice to Mariners.

(c) *Enforcement.* The regulations in this section shall be enforced by the Superintendent, U.S. Naval Academy, Annapolis, Maryland and such agencies as they may designate.

Thomas P. Smith,

Chief, Operations and Regulatory Division.

[FR Doc. 2022–26367 Filed 12–2–22; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0326; FRL–9693–01–R9]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; 2015 Ozone Infrastructure Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove the Arizona state implementation plan (SIP) as meeting the requirements of sections 110(a)(1) and 110(a)(2) of the Clean Air Act (CAA) for the implementation, maintenance, and enforcement of the 2015 ozone national ambient air quality standards (NAAQS or ''standards'').

Section 110(a)(1) requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, and that the EPA act on such SIPs. We refer to such SIPs as ''infrastructure'' SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS including, but not limited to, legal authority, regulatory structure, resources, permit programs, monitoring, and modeling necessary to assure attainment and maintenance of the standards. In addition to our proposed partial approval and partial disapproval of Arizona's infrastructure SIP, the EPA is proposing to approve rules in the Arizona Revised Statutes and Pima County Code related to public availability of emissions reports into the Arizona SIP. Lastly, the EPA is proposing to reclassify regions in Arizona with respect to episode plans for ozone under 40 CFR 51.150. The EPA is seeking public comments on this proposed action and will accept comments from the public on this proposal for the next 30 days.

DATES: Any comments must arrive by January 4, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0326 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ben Leers, Air Planning Office (AIR–2), EPA Region IX, (415) 947–4279, *Leers.Ben@epa.gov.*

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

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I. The EPA's Approach To Reviewing Infrastructure SIPs

The EPA is acting on SIP submittals from Arizona that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) with respect to the 2015 ozone NAAQS. Under section 110(a)(1), states are required to submit infrastructure SIPs within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof). The infrastructure SIP submittals required under section 110(a)(1) are intended to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submittals, and the requirement to make the submittals is not conditioned upon the EPA taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific ''elements'' that each such infrastructure SIP submittal must address.

The EPA has historically referred to these SIP submittals made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as infrastructure SIP submittals. Although the term ''infrastructure SIP'' does not appear in the CAA, the EPA uses the term to distinguish this particular type of SIP submittal from submittals that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment SIP'' submittals to address the nonattainment planning requirements of CAA title I part D, ''regional haze SIP'' submittals required by the EPA rule to address the visibility protection requirements of section 169A, and nonattainment new source review (NSR) permit program submittals to address the permit requirements of CAA title I part D.

CAA section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submittals, and section 110(a)(2) provides more details concerning the required contents of these submittals. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[1] The EPA therefore believes that, while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, the EPA believes that the list of required elements for infrastructure SIP submittals provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submittal.

The following examples of ambiguities illustrate the need for the EPA to interpret some CAA section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submittals for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submittal must meet the list of requirements therein, while the EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in CAA title I part D, which specifically address nonattainment SIP requirements.[2] Section 110(a)(2)(I) pertains to nonattainment SIP requirements, and part D addresses when attainment plan SIP submittals to address nonattainment area requirements are due. For example, section 172(b) requires the EPA to

[1] For example, CAA section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[2] See, e.g, 70 FR 25162, 25163–25165 (May 12, 2005), explaining the relationship between the timing requirements of CAA section 110(a)(2)(D) versus section 110(a)(2)(I).

establish a schedule for submittal of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[3] This ambiguity illustrates that, rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, the EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submittal. Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submittal and whether the EPA must act upon such SIP submittal in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, the EPA interprets the CAA to allow states to make multiple SIP submittals separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submittals to meet the infrastructure SIP requirements, the EPA can elect to act on such submittals either individually or in a larger combined action.[4] Similarly, the EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submittal for a given NAAQS without concurrent action on the entire submittal. For example, the EPA has sometimes elected to act at different times on various elements and subelements of the same infrastructure SIP submittal.[5]

Ambiguities within CAA sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submittal requirements for different NAAQS. Thus, the EPA notes that not every element of section 110(a)(2) would be relevant, as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submittals for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submittal for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example, because the content and scope of a state's infrastructure SIP submittal to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[6]

The EPA notes that interpretation of CAA section 110(a)(2) is also necessary when the EPA reviews other types of SIP submittals required under the CAA. Therefore, as with infrastructure SIP submittals, the EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submittals. For example, section 172(c)(7) requires that attainment plan SIP submittals required by part D meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submittals must meet the requirements of section 110(a)(2)(A) regarding enforceable emissions limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submittals required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the air quality prevention of significant deterioration (PSD) program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submittal may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), the EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submittal. In other words, the EPA assumes that Congress could not have intended that each and every SIP submittal, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, the EPA has adopted an approach under which it reviews infrastructure SIP submittals against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, the EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submittals for particular elements.[7] The EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (''2013 Infrastructure SIP Guidance'').[8] The EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, the EPA describes the duty of states to make infrastructure SIP submittals to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. The EPA also made recommendations about many specific subsections of CAA section 110(a)(2) that are relevant in the context of infrastructure SIP submittals.[9] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, the EPA

[3] The EPA notes that this ambiguity within CAA section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submittal of certain types of SIP submittals in designated nonattainment areas for various pollutants. Note, for example, that section 182(a)(1) provides specific dates for submittal of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[4] See, *e.g.,* the EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 NSR rule for particulate matter of 2.5 micrometers or less ($PM_{2.5}$) at 78 FR 4339 (January 22, 2013), and the EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS at 78 FR 4337 (January 22, 2013).

[5] On December 14, 2007, the State of Tennessee made a SIP revision to the EPA demonstrating that the State meets the requirements of CAA sections 110(a)(1) and 110(a)(2). The EPA proposed action for infrastructure SIP elements (C) and (J) at 77 FR 3213 (January 23, 2012) and took final action at 77 FR 14976 (March 14, 2012). The EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal; see 77 FR 22533 (April 16, 2012) and 77 FR 42997 (July 23, 2012).

[6] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of new indicator species for the new NAAQS.

[7] The EPA notes, however, that nothing in the CAA requires the EPA to provide guidance or to promulgate regulations for infrastructure SIP submittals. The CAA directly applies to states and requires the submittal of infrastructure SIP submittals, regardless of whether or not the EPA provides guidance or regulations pertaining to such submittals. The EPA elects to issue such guidance in order to assist states, as appropriate.

[8] Memorandum dated September 13, 2013, from Stephen D. Page, Director, Office of Air Quality and Planning Standards, U.S. EPA, Subject: ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).''

[9] The 2013 Infrastructure SIP Guidance did not make recommendations with respect to infrastructure SIP submittals to address CAA section 110(a)(2)(D)(i)(I). The EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, the EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether the EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submittals need to address certain issues and need not address others. Accordingly, the EPA reviews each infrastructure SIP submittal for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, CAA section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submittals. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, the EPA reviews infrastructure SIP submittals to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Infrastructure SIP Guidance explains the EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in the EPA's evaluation of infrastructure SIP submittals because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, the EPA's review of infrastructure SIP submittals with respect to the PSD program requirements in CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) focuses on the structural PSD program requirements contained in CAA title I part C and the EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and regulated NSR pollutants, including greenhouse gases (GHG). By contrast, structural PSD program requirements do not include provisions that are not required under the EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 NAAQS for particulate matter of 2.5 micrometers or less ($PM_{2.5}$). Accordingly, the latter optional provisions are types of provisions the EPA considers irrelevant in the context of an infrastructure SIP action.

For other CAA section 110(a)(2) elements, however, the EPA's review of a state's infrastructure SIP submittal focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, inter alia, the requirement that states have a program to regulate new minor sources. Thus, the EPA evaluates whether the state has a SIP-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submittal, however, the EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and the EPA's regulations that pertain to such programs.

With respect to certain other issues, the EPA does not believe that an action on a state's infrastructure SIP submittal is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction (SSM) that may be contrary to the CAA and EPA policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by the EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of the EPA's ''Final NSR Improvement Rule.'' [10] Thus, the EPA believes it may approve an infrastructure SIP submittal without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submittal even if it is aware of such existing provisions.[11] It is important to note that the EPA's approval of a state's infrastructure SIP submittal should not be construed as explicit or implicit reapproval of any existing potentially deficient provisions that relate to the three specific issues just described.

The EPA's approach to reviewing infrastructure SIP submittals is to identify the CAA requirements that are logically applicable to that submittal. The EPA believes that this approach to the review of a particular infrastructure SIP submittal is appropriate because it would not be reasonable to read the general requirements of CAA section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when the EPA evaluates adequacy of the infrastructure SIP submittal. The EPA believes that a better approach is for states and the EPA to focus attention on those elements of section 110(a)(2) most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, the 2013 Infrastructure SIP Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of CAA section 110(a)(2)(D)(i)(II) because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submittal for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, the EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of CAA sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow the EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes the EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise

[10] See 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007).

[11] By contrast, the EPA notes that if a state were to include a new provision in an infrastructure SIP submittal that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then the EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

comply with the CAA.[12] Section 110(k)(6) authorizes the EPA to correct errors in past actions, such as past approvals of SIP submittals.[13] Significantly, the EPA's determination that an action on a state's infrastructure SIP submittal is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude the EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submittal, the EPA believes that section 110(a)(2)(A) may be among the statutory bases that the EPA relies upon in the course of addressing such deficiency in a subsequent action.[14]

II. Background

A. Statutory Framework

As described in the previous section, CAA section 110(a)(1) requires states to make a SIP submittal within three years after the promulgation of a new or revised primary NAAQS. Section 110(a)(2) includes a list of specific elements that each infrastructure SIP submittal must include. These infrastructure SIP elements required by section 110(a)(2) are as follows:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C): Program for enforcement of control measures and regulation of new and modified stationary sources.
- Section 110(a)(2)(D)(i): Interstate pollution transport.
- Section 110(a)(2)(D)(ii): Interstate and international pollution abatement.
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local and regional government agencies.
- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J): Consultation with government officials, public notification, PSD, and visibility protection.
- Section 110(a)(2)(K): Air quality modeling and submittal of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

Two elements identified in CAA section 110(a)(2) are not governed by the three-year submittal deadline of section 110(a)(1) and are therefore not addressed in this action. These two elements are section 110(a)(2)(C), to the extent that it refers to permit programs required under part D (nonattainment NSR), and section 110(a)(2)(I), pertaining to the nonattainment planning requirements of part D. As a result, this action does not address infrastructure requirements for the nonattainment NSR portion of section 110(a)(2)(C) or the entirety of section 110(a)(2)(I). Additionally, this action does not address the interstate transport requirements under section 110(a)(2)(D)(i)(I), referred to as ''prongs 1 and 2'' of section 110(a)(2)(D)(i), or the requirements of section 110(a)(2)(D)(i)(II) pertaining to interference with visibility protection in other states, referred to as ''prong 4'' of section 110(a)(2)(D)(i). The EPA proposed action on Arizona's SIP with respect to prongs 1 and 2 of section 110(a)(2)(D)(i) for the 2015 ozone NAAQS in a prior rulemaking,[15] and the EPA will take action on Arizona's SIP with respect to prong 4 of section 110(a)(2)(D)(i) in a separate, future rulemaking.

B. Regulatory Background

In 2015, the EPA promulgated revised NAAQS for 8-hour ozone, triggering a requirement for states to submit infrastructure SIPs. The 2015 ozone NAAQS revised the 2008 8-hour ozone NAAQS by lowering the primary and secondary 8-hour ozone standards from 75 parts per billion (ppb) to 70 ppb.

III. State Submittals

The Arizona Department of Environmental Quality (ADEQ) submitted two SIP revisions to address the infrastructure SIP requirements in CAA sections 110(a)(1) and 110(a)(2) for the 2015 ozone NAAQS. On September 24, 2018, ADEQ submitted the ''Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2015 Ozone National Ambient Air Quality Standards'' (''2018 Ozone I–SIP submittal'').[16] On February 10, 2022, ADEQ submitted the ''State Implementation Plan Revision: Clean Air Act Section 110(a)(2) for the 2012 Fine Particulate & 2015 Ozone NAAQS'' (''2022 I–SIP supplement'').[17] The 2018 Ozone I–SIP submittal and the portion of the 2022 I–SIP supplement addressing the 2015 Ozone NAAQS collectively address the infrastructure SIP requirements for the 2015 ozone NAAQS as described by this proposed rule. We refer to them collectively herein as ''Arizona's Ozone I–SIP submittals.''

We find that Arizona's Ozone I–SIP submittals meet the procedural requirements for public participation under CAA section 110(a)(2) and 40 CFR 51.102. We also find that they meet the applicable completeness criteria in Appendix V to 40 CFR part 51. We are proposing to act on these submittals with respect to the 2015 ozone NAAQS except for those portions of the 2018 Ozone I–SIP Submittal addressing prongs 1, 2, and 4 of the interstate transport requirements under CAA section 110(a)(2)(D)(i). We are not taking action on the portions of the 2022 I–SIP supplement addressing the 2012 $PM_{2.5}$ NAAQS in this rulemaking.

IV. The EPA's Evaluation and Proposed Action

We have evaluated Arizona's Ozone I–SIP submittals and the existing provisions of the Arizona SIP for compliance with the infrastructure SIP requirements of CAA section 110(a)(2)

[12] For example, the EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See 76 FR 21639 (April 18, 2011).

[13] The EPA has used this authority to correct errors in past actions on SIP submittals related to PSD programs. See Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule, 75 FR 82536 (December 30, 2010). The EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[14] See, *e.g.,* the EPA's disapproval of a SIP submittal from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342, 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

[15] 87 FR 37776 (June 24, 2022).

[16] Letter dated September 24, 2018, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Michael Stoker, Regional Administrator, EPA Region IX, Subject: ''Submittal of the Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2015 Ozone NAAQS.''

[17] Letter dated February 10, 2022, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Martha Guzman, Regional Administrator, EPA Region IX, Subject: ''Submittal of the Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(2) for the 2012 Fine Particulate and the 2015 Ozone NAAQS.''

and the applicable regulations in 40 CFR part 51 (''Requirements for Preparation, Adoption, and Submittal of State Implementation Plans''). The technical support document (TSD) for this rulemaking is available in the docket and includes our evaluation for these infrastructure SIP elements as well as our evaluation of various statutory and regulatory provisions identified and submitted by Arizona.

A. Proposed Approvals and Partial Approvals

Based on the evaluation presented in this notice and in the accompanying TSD, the EPA proposes to approve Arizona's Ozone I–SIP submittals with respect to the 2015 ozone NAAQS for the following CAA requirements. Proposed partial approvals are indicated by the parenthetical ''(in part).''

- 110(a)(2)(A)—Emission limits and other control measures.
- 110(a)(2)(B)—Ambient air quality monitoring/data system.
- 110(a)(2)(C)—Program for enforcement of control measures and regulation of new stationary sources (in part).
- 110(a)(2)(D)(i)(II)—Interference with maintenance, or ''prong 3'' (in part).
- 110(a)(2)(D)(ii)—Interstate pollution abatement, CAA section 126 (in part).
- 110(a)(2)(D)(ii)—International pollution abatement, CAA section 115.
- 110(a)(2)(E)—Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- 110(a)(2)(F)—Stationary source monitoring and reporting.
- 110(a)(2)(G)—Emergency episodes.
- 110(a)(2)(H)—Consultation with government officials.
- 110(a)(2)(J)—Consultation with government officials, public notification, PSD, and visibility protection (in part).
- 110(a)(2)(K)—Air quality modeling and submission of modeling data.
- 110(a)(2)(L)—Permitting fees.
- 110(a)(2)(M)—Consultation/participation by affected local entities.

Details about the partial approvals noted in this section are provided in Section IV.B of this notice regarding proposed partial disapprovals. The EPA is taking no action on prongs 1, 2, and 4 of CAA section 110(a)(2)(D)(i) in this rulemaking. In addition to our proposed partial approval and partial disapproval of Arizona's infrastructure SIP, we are proposing to approve Arizona Revised Statute (ARS) 49–432 and Pima County Code (PCC) 17.24.010 for incorporation into the Arizona SIP.

B. Proposed Partial Disapprovals

The EPA proposes to partially disapprove Arizona's Ozone I–SIP submittals with respect to the 2015 ozone NAAQS for the following Clean Air Act requirements.

- 110(a)(2)(C)—Program for enforcement of control measures and regulation of new stationary sources (in part).
- 110(a)(2)(D)(i)(II)—Interference with maintenance, or ''prong 3'' (in part).
- 110(a)(2)(D)(ii)—Interstate pollution abatement, CAA section 126 (in part).
- 110(a)(2)(J)—PSD and visibility protection (in part).

The EPA is proposing to partially disapprove Arizona's Ozone I–SIP submittals with respect to the 2015 ozone NAAQS for these CAA requirements due to deficiencies with PSD permitting of GHG in all permitting jurisdictions in Arizona and with PSD permitting of all NSR-regulated pollutants in Pima County. The EPA's proposed disapprovals apply only to the portions of these requirements that relate to PSD permitting programs in Arizona, and they apply only with respect to PSD permitting of GHG in all areas of Arizona and with respect to PSD permitting of all NSR-regulated pollutants in Pima County.

Arizona's SIP does not fully satisfy the statutory and regulatory requirements for PSD permit programs under CAA title I, part C, and thus Pima County currently implements the federal PSD program in 40 CFR 52.21 for all regulated NSR pollutants, pursuant to a delegation agreement with the EPA, and all Arizona jurisdictions implement the federal PSD program in 40 CFR 52.21, pursuant to delegation agreements with the EPA, for GHG because Arizona is prohibited by state law from regulating emissions of GHG. Although the Arizona SIP remains deficient with respect to PSD permitting for certain pollutants in certain areas of Arizona as described, these deficiencies are adequately addressed in both areas by existing federal implementation plans (FIPs). If finalized, these partial disapprovals of Arizona's SIP would not create any new consequences for Arizona, the relevant county agencies, or the EPA, as Arizona and the county agencies already implement the EPA's federal PSD program at 40 CFR 52.21, pursuant to delegation agreements, for all regulated NSR pollutants. If finalized, these partial disapprovals would also not result in any offset or highway sanctions, because sanctions are not triggered by disapprovals of infrastructure SIPs submittals.

C. Incorporation of Rules Into Arizona's State Implementation Plan

Under CAA section 110(a)(2)(F), SIPs must require the installation and maintenance of emissions monitoring by stationary sources, periodic emissions reports from such sources, and correlation of such reports with applicable emissions limitations or standards established under the CAA. The stationary source emissions reports required pursuant to section 110(a)(2)(F) must be made available at reasonable times for public inspection.

The 2022 I–SIP supplement includes the submittal of the following two rules for incorporation into the Arizona SIP to meet the requirements of CAA section 110(a)(2)(F) for the 2015 ozone NAAQS: Arizona Revised Statute (ARS) 49–432 and Pima County Code (PCC) 17.24.010. Specifically, ARS 49–432 and PCC 17.24.010 address the provisions of section 110(a)(2)(F) requiring the public availability of stationary source emissions reports. ARS 49–432 requires that ADEQ make available to the public any records, reports, or information obtained pursuant to ARS Title 49, Chapter 3, ''AIR QUALITY.'' Similarly, PCC 17.24.010 requires that the Pima County Department of Environmental Quality make available to the public any records, reports, or information obtained pursuant to PCC Title 17, Chapter 17.24, ''EMISSION SOURCE RECORDKEEPING AND REPORTING.'' ARS 49–432 and PCC 17.24.010 each include exemptions to public availability requirements related to business confidentiality, ongoing criminal investigations, and civil enforcement actions.

We find that ARS 49–432 and PCC 17.24.010 provide for the public availability of stationary source emissions reports consistent with the requirements of CAA section 110(a)(2)(F). We therefore propose to approve ARS 49–432 and PCC 17.24.010 into the Arizona SIP. Arizona's Ozone I–SIP submittals include numerous other state and county provisions and a narrative description of how these provisions satisfy CAA section 110(a)(2)(F). We are proposing to approve Arizona's SIP as meeting the requirements of section 110(a)(2)(F); our evaluation of the provisions cited in the Arizona's Ozone I–SIP submittals against the requirements of section 110(a)(2)(F) is included in the TSD for this proposed rule.

D. Reclassification of Regions for Ozone Episode Plans

The priority thresholds for classification of air quality control

regions are listed at 40 CFR 51.150, and the specific classifications of air quality control regions in Arizona are listed at 40 CFR 52.121. Consistent with the provisions of 40 CFR 51.153, reclassification of an air quality control region must rely on the most recent three years of air quality data. Under 40 CFR 51.151 and 51.152, regions classified Priority I, IA, or II are required to have SIP-approved emergency episode contingency plans, while those classified Priority III are not required to have plans. We interpret 40 CFR 51.153 as establishing the means for states to review air quality data and request a higher or lower classification for any given region and as providing the regulatory basis for the EPA to reclassify such regions, as appropriate, under the authorities of CAA sections 110(a)(2)(G) and 301(a)(1).

The priority classification threshold for ozone under 40 CFR 51.150 is 195 micrograms per cubic meter, equivalent to 0.10 parts per million (ppm), calculated as a one-hour maximum. Regions with one-hour ozone concentrations greater than 0.10 ppm are classified as Priority I for ozone under 40 CFR 51.150. All other regions are classified as Priority III for ozone. Arizona's regional priority classifications for ozone under 40 CFR 51.150 are located at 40 CFR 52.121. Currently, the Maricopa Intrastate air quality control region (AQCR) and the Pima Intrastate AQCR are classified as Priority I for ozone.

Air quality data from 2019–2021 indicate that the maximum one-hour ozone concentrations monitored in two Arizona regions exceed the Priority I threshold for one-hour ozone. The maximum one-hour ozone concentration measured in the Maricopa Intrastate AQCR in this period was 0.14 ppm; the maximum one-hour ozone concentration measured in the Central Arizona Intrastate AQCR in this period was 0.11 ppm. We are proposing to retain the classification of the Maricopa Intrastate AQCR as Priority I and to reclassify the Central Arizona Intrastate AQCR from Priority III to Priority I for ozone.

Air quality data from 2019–2021 also indicate that the maximum one-hour ozone concentration monitored in the Pima Intrastate AQCR does not exceed the Priority I threshold for one-hour ozone. The maximum one-hour ozone concentration monitored in this region from 2019–2021 was 0.09 ppm. We are therefore proposing to reclassify the Pima Intrastate AQCR from Priority I to Priority III for ozone.

If finalized, the reclassification of the Central Arizona Intrastate AQCR from Priority III to Priority I for ozone will not generate new requirements for Arizona to submit an emergency episode contingency plans for this area because the provisions in Arizona's existing emergency episode plan apply uniformly statewide. Thus, our proposed reclassification of the Central Arizona Intrastate AQCR for ozone also does not affect our proposed approval of the Arizona SIP with respect CAA section 110(a)(2)(G) for the 2015 ozone NAAQS.

V. Statutory and Executive Order Reviews

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

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

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

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

List of Subjects in 40 CFR Part 52

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

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

Dated: November 17, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–26359 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0651; FRL–10268–01–R9]

Air Plan Approval; California; Eastern Kern Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Eastern Kern Air Pollution Control District (EKAPCD) portion of the California State Implementation Plan (SIP). In this action, we are proposing to approve a local rule submitted by the EKAPCD, governing the issuance of permits for stationary sources, focusing on the preconstruction review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or ''the Act''). In the ''Rules and Regulations'' section of this issue of the **Federal Register**, we are approving the submitted rule into

the California SIP as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by January 4, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0651 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Po-Chieh Ting, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3191 or by email at *ting.pochieh@epa.gov.*

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

This document proposes to approve EKAPCD Rule 210.1A into the EKAPCD portion of the California SIP. This rule was submitted to the EPA by the California Air Resources Board (CARB) on October 5, 2022 by a letter of the same date. We find that CARB's October 5, 2022 SIP submittal for EKAPCD Rule 210.1A meets the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

We have published a direct final rule to approve the submitted rule into the EKAPCD portion of the California SIP in the ''Rules and Regulations'' section of this issue of the **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Dated: November 28, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–26360 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0201; FRL–10437–01–R4]

Air Plan Approval; Tennessee; Revisions to Control of Sulfur Dioxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC), through a letter dated June 1, 2021. The SIP submittal proposes to revise SIP requirements regarding the installation, maintenance, and termination of ambient air sulfur dioxide (SO_2) monitors near large industrial SO_2 emitting sources in the State. EPA is proposing to approve these changes to the Tennessee Air Pollution Control Regulations (TAPCR) related to the control of SO_2 emissions into the SIP because they are consistent with the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before January 4, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2022–0201 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Josue Ortiz, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8085. Mr. Ortiz can also be reached via electronic mail at *ortizborrero.josue@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Chapter 1200–3–14 of TAPCR regulates SO_2 emissions within the State. Under the General Provisions of this chapter, TAPCR 1200–03–14–.01(6) requires every owner or operator of certain large fuel burning installations and process emission sources to: (1) demonstrate to the satisfaction of the Technical Secretary that their SO_2 emissions will not interfere with attainment and maintenance of any air quality standard, and (2) install and maintain air quality sensors to monitor attainment and maintenance of ambient air quality standards in the areas influenced by their SO_2 emissions. This rule also allows owners or operators to petition the Technical Secretary to terminate ambient monitoring previously commenced provided certain conditions are met.

As explained in more detail below, TDEC's June 1, 2021, SIP submittal proposes changes to paragraph 1200–03–14–.01(6), which is related to the control of SO_2 emissions in the State of

Tennessee. Specifically, the submission proposes changes to Tennessee's ambient SO_2 monitoring requirements for affected emission sources, including adding a provision to require the use of permitted allowable SO_2 emissions for the demonstration that subject sources are required to make to show that their SO_2 emissions will not cause interference with attainment and maintenance of any air quality standard, the removal of a less than 20,000 tons per year (tpy) threshold to qualify for the termination of monitors, the addition of a data completeness requirement for the two years of ambient data collected prior to termination of monitoring, and the addition of an exemption for any fuel burning installation or process emission source located in an area in which the Technical Secretary operates one or more ambient SO_2 air quality monitors in the area under the influence of the source's emissions. Tennessee's SIP submittal also provides a CAA section 110(*l*) non-interference demonstration to show that the proposed changes to paragraph 1200–03–14–.01(6) will not interfere with any applicable requirement concerning attainment of any NAAQS and reasonable further progress (RFP), or any other applicable CAA requirement. Lastly, the SIP includes clarifying administrative changes to the regulatory language at paragraph 1200–03–14–.01(6).

II. What action is EPA proposing?

EPA is proposing to approve Tennessee's June 1, 2021, SIP revision [1] adopting changes to the *General Provisions* (Section 1200–03–14–.01) of TAPCR Chapter 1200–03–14, *Control of Sulfur Dioxide Emissions,* which were adopted on June 3, 2009, and May 31, 2021. The SIP submission proposes to revise Tennessee's general provisions for characterizing SO_2 emissions through ambient air monitoring near fuel burning installations [2] with a specific rated capacity or process emission sources that emit a specific emission level of SO_2. EPA proposes to approve this SIP revision because the Agency preliminarily finds that the changes to paragraph 1200–03–14–.01(6) are consistent with the CAA and will not interfere with any applicable requirement concerning attainment of the SO_2 NAAQS and RFP or any other applicable CAA requirement.

III. Tennessee's SIP Revision and EPA's Review

A. Summary of Existing Paragraph 1200–03–14–.01(6)

The current SIP-approved version of paragraph 1200–03–14–.01(6) applies to owners or operators of large fuel burning installations with a total rated capacity greater than 1,000 million British thermal units per hour (MMBtu/hr) or process emission sources that emit greater than 1,000 tpy of SO_2, starting in 1972 and thereafter. The following three subparagraphs of the rule describe the requirements these facilities must meet.

As described in subparagraph (a) of paragraph 1200–03–14–.01(6), these sources are required to demonstrate that they will not interfere with attainment or maintenance of the SO_2 NAAQS, either alone or in combination with other SO_2 sources in the area.

Subparagraph (b) of paragraph 1200–03–14–.01(6) requires subject sources to install and maintain ambient air SO_2 monitors in areas influenced by their emissions. This subparagraph also allows sources to petition the Tennessee Technical Secretary [3] to shut down these industrial SO_2 monitors based on two years of air quality data within the area of influence of the source's emissions under certain conditions. As described in subparagraph 1200–03–14–.01(6)(b), such petitions may be granted only if the following three conditions are met: (1) the actual SO_2 emissions from a fuel burning installation do not exceed 20,000 tpy; (2) the source is not located in a nonattainment area, and does not significantly impact a nonattainment area; and (3) the monitored SO_2 concentrations in the vicinity of the source do not exceed 75 percent of the Tennessee Ambient Air Quality Standards.

Finally, subparagraph (c) of paragraph 1200–03–14–.01(6) requires that any calculations performed to demonstrate that sources, either alone or in contribution to other sources, will not interfere with attainment and maintenance of any primary or secondary air quality standard must be based on the assumption that the source is operating at maximum rated capacity.

Sources in Tennessee that meet applicability requirements of paragraph 1200–03–14–.01(6) include large fuel burning installations (identified by Tennessee as electric generating units (EGUs)) and process or manufacturing emission sources (non-EGUs). The existing subject sources consist of seven EGUs operated by the Tennessee Valley Authority (TVA) and three non-EGU sources. Tennessee includes in its submission a list of the EGUs and non-EGUs in the State that meet the applicability criteria of paragraph 1200–03–14–.01(6).[4] The list includes the SO_2 attainment status for each area where these sources are located and each facility's ambient monitoring status.

B. Summary of Tennessee's June 1, 2021, Proposed Changes to Paragraph 1200–03–14–.01(6)

Tennessee's June 1, 2021, SIP submission proposes to amend Chapter 1200–03–14, *Control of Sulfur Dioxide Emissions,* by modifying paragraph (6) of Section 1200–03–14–.01, *General Provisions.* The submission also includes a CAA section 110(*l*) non-interference demonstration, discussed in more detail in Section III.C of this preamble, to show that the proposed changes to paragraph 1200–03–14–.01(6) in the Tennessee SIP will not interfere with any applicable requirement concerning attainment of the SO_2 NAAQS and RFP or any other applicable CAA requirement. The following paragraphs discuss these revisions more specifically.

Paragraph 1200–03–14–.01(6) is revised to replace ''calendar year 1972 or any other calendar year thereafter'' with ''any calendar year.'' This change simply removes the obsolete year 1972 for which an affected source would have to reach the required rated capacity or the 1,000 tpy emission threshold in order to be covered under this rule. Additionally, minor administrative changes were applied to this paragraph and a reference is added to point to the new applicability exception under subparagraph 1200–03–14–.01(6)(d) described below.

As noted in Section III.A of this preamble, subparagraph (a) of paragraph 1200–03–14–.01(6) requires affected sources subject to this rule to demonstrate that SO_2 emissions from these sources will not interfere with attainment or maintenance of the SO_2 NAAQS, either alone or in combination with other SO_2 sources. The June 1, 2021, SIP submission adds a sentence to

[1] EPA notes that the June 1, 2021, SIP revision was received by the Regional Office on June 15, 2021. However, for clarity, EPA will reference the submission by its cover letter date of June 1, 2021.

[2] TAPCR 1200–3–2–.01, General Definitions, defines ''fuel burning installation'' as one or more units of fuel-burning equipment where the products of combustion are discharged through a single stack or where the products of combustion are discharged through more than one stack the plumes from which tend to merge into a single plume.

[3] TAPCR 1200–03–02–.01. *General Definitions,* defines ''Technical Secretary'' as the Technical Secretary of the Air Pollution Control Board of the State of Tennessee.

[4] The list of affected sources can be found in Table 1, Facilities Affected by the Proposed Rule Changes, under the CAA section 110(*l*) demonstration included with the State's submission. The June 1, 2021, submission, including the 110(*l*) demonstration, can be found in the docket for this proposed action.

subparagraph (a) stating that ''Any such demonstration must be based on the allowable emission rate specified in the source's construction or operating permit(s) and the source's maximum rated capacity.'' The requirement that the demonstration will be based on maximum rated capacity is moved from SIP-approved subparagraph (c) which is now deleted and reserved. Subparagraph (a) adds language that provides that any such demonstrations will be based on a source's allowable emissions, which is limited by the source's maximum rated capacity and any enforceable emission limits. The latter is determined by either requirements for new or modified sources under construction permit programs or by applicable requirements incorporated into title V operating permits for the sources covered under Rule 1200–03–14–.01(6).[5]

As noted in Section III.A of this preamble, subparagraph (b) of paragraph 1200–03–14–.01(6) establishes the requirement for owners and operators of affected sources to install and maintain SO_2 air quality monitors, provides the criteria for reporting monitored SO_2 data to the state air agency, and states that owners and operators may petition the Technical Secretary to terminate operation of a SO_2 monitor based on two calendar years of air quality data and compliance with other specific criteria. *See* TAPCR 1200–03–14–.01(6)(b). The proposed amendments at subparagraph (b) clarify that owners or operators must provide two *complete* calendar years of data from the cited monitor in the area of influence of the SO_2 source. The revision also defines the term ''complete'' for the purpose of this subparagraph to mean that all data was collected in accordance with the collection, completeness, and quality assurance requirements specified in the affected source's title V operating permit.

As noted in Section III.A of this preamble, subparagraph (b) of paragraph 1200–03–14–.01(6) also allows source owners or operators to petition to terminate operation of an SO_2 monitor in the source's area of influence. The Technical Secretary may grant the petition if three criteria are met: (1) Actual SO_2 emissions from a fuel burning installation do not exceed 20,000 tpy; (2) the source is located in an attainment area and does not significantly impact a sulfur dioxide nonattainment area; and (3) measurements of air quality in the vicinity of the source demonstrate that ambient SO_2 levels do not exceed 75 percent of the Tennessee Ambient Air Quality Standards. The June 1, 2021, proposed amendment removes the first criterion, that actual SO_2 emissions for fuel burning installations do not exceed 20,000 tpy, as a mandatory prerequisite to granting a petition to terminate operation of a monitor.[6]

The proposed amendments to the rule also add a new provision at subparagraph 1200–03–14–.01(6)(d) that exempts owners or operators from the requirement to install and maintain an SO_2 ambient air monitor in the area under the influence of the applicable source, as required by 1200–03–14–.01(b), if the Technical Secretary operates one or more ambient SO_2 air quality monitors in the area under the influence of the source's emissions.

Tennessee explains in its section 110(*l*) non-interference demonstration that SO_2 emission levels in the State have decreased significantly over the last ten years due to several air quality improvements such that the SIP revision will not interfere with attainment or maintenance of any NAAQS. See section III.C, below, for EPA's review and analysis of Tennessee's SIP submission, including its non-interference demonstration.

C. CAA Section 110(l) Non-Interference Demonstration

Section 110(*l*) of the CAA prohibits approval of a SIP revision if the revision would interfere with any applicable requirement concerning attainment and RFP, or any other applicable requirement of the CAA. Tennessee's June 1, 2021, SIP revision includes a CAA section 110(*l*) non-interference demonstration for the removal of item (1) of subparagraph 1200–03–14–.01(6)(b), which eliminates one of three criteria required for terminating operation of an industrial SO_2 monitor, and for adding a new subparagraph 1200–03–14–.01(6)(d), which would exempt subject sources from the requirement to install an SO_2 monitor if the state air agency operates one or more SO_2 monitors in the area under the influence of the source. Tennessee's section 110(*l*) demonstration is intended to show that the changes to Rule 1200–03–14–.01(6) will not interfere with attainment or maintenance, RFP, or any other applicable CAA requirement. Because Rule 1200–03–14–.01(6) is part of the Tennessee SIP, the requirements of CAA section 110(*l*) must be satisfied before EPA can approve changes to the existing ambient monitoring requirements. EPA has reviewed Tennessee's SIP revision and preliminarily finds the submission consistent with CAA section 110(*l*). EPA's review and assessment of Tennessee's CAA 110(*l*) demonstration is provided in Sections III.C.1 and 2.

1. CAA Section 110(*l*) Demonstration for Proposed Changes to Subparagraph 1200–03–14–.01(6)(b)

Tennessee's June 1, 2021, submission includes a demonstration to show that removing the 20,000 tpy emission threshold criterion at item (1) of subparagraph 1200–03–14–.01(6)(b), which is one of three required conditions that must be met for the Technical Secretary to grant approval of a petition to terminate operation of the SO_2 monitor, is consistent with CAA section 110(*l*). Tennessee's section 110(*l*) demonstration indicates that SO_2 levels in the State have dropped markedly over the last decade due to enforceable control measures and retirement of coal-burning installations, which have resulted in a significant reduction in SO_2 emissions such that the removal of the 20,000 tpy threshold in item (1) of subparagraph 1200–03–14–.01(6)(b) will not interfere with attainment or maintenance of the SO_2 standard in the State.

Table 1 of the section 110(*l*) demonstration identifies seven EGUs and three non-EGU SO_2 emitting sources in Tennessee as sources affected by the proposed changes to the requirements of paragraph 1200–03–14–.01(6). Some of these facilities petitioned the Technical Secretary to terminate the operation of their respective SO_2 industrial monitors, and those petitions were granted. Table 1 indicates that a petition to terminate the operation of SO_2 monitors was granted to six facilities in 2008 and to one facility in 2019. Table 1 identifies two facilities, Eastman Chemical Company (Eastman) and Nyrstar Clarksville, Inc. (Nyrstar), as operating monitors, and the 110(*l*) demonstration also states that these are the only sources currently required to perform ambient monitoring pursuant to 1200–03–14–.01(6)(b).[7]

[5] These applicable requirements include requirements under Tennessee's SIP, including limitations on SO_2 emissions for fuel burning and process installations that are specified in TAPCR 1200–3–14–.02 and 1200–3–14–.03, respectively.

[6] The criterion under 1200–03–14–.01(6)(b)(1) was removed from the Tennessee state regulations on June 13, 2009. A copy of the 2008 public notice for the amendment to 1200–03–14–.01(6)(b)(1) is included in Tennessee's June 1, 2021, SIP revision which proposes to remove the provision from the SIP.

[7] TDEC confirmed that Eastman no longer operates a monitor, so Nyrstar is the only facility currently subject to Rule 1200–03–14–.01(6) with an industrial SO_2 monitor. *See* emails dated June 10, 2022, included in the docket for this proposed action.

The seven EGUs listed in Table 1 are TVA fossil plants Allen, Bull Run, Cumberland, Gallatin, John Sevier, Johnsonville, and Kingston. Actual SO_2 emissions from each of these facilities were less than 20,000 tpy during most of the years between 2013 and 2019, as shown in Table 3 of Tennessee's section 110(*l*) demonstration. The two facilities that exceeded 20,000 tpy during certain years, TVA Johnsonville and Gallatin, subsequently either retired their coal-burning units or added SO_2 emission controls.[8]

Three of the seven EGUs, TVA John Sevier, Johnsonville and Allen, have retired their coal-fired units or replaced them with natural gas combined cycle plants in 2012, 2017, and 2018, respectively. As shown in Table 3 of Tennessee's section 110(*l*) demonstration, SO_2 emissions from these facilities have been extremely low following these changes.

The other four EGUs, TVA Bull Run, Kingston, Cumberland, and Gallatin, still operate coal-fired units, but actual SO_2 emissions from all four of these sources show a declining trend and that emissions were well below the 20,000 tpy threshold from 2016 through 2019.[9] These facilities are all subject to an SO_2 emission limit of 0.20 lb/MMBtu pursuant to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for coal and oil-fired EGUs at 40 CFR part 63 Subpart UUUUU. TDEC notes that compliance with 40 CFR part 63 Subpart UUUUU limits emissions from Bull Run, Kingston, and Gallatin to less than 20,000 tpy based on the sources' allowable SO_2 emissions at nominal heat input (*i.e.,* heat input capacity by design).[10]

Noting that TVA Cumberland has allowable SO_2 emissions greater than 20,000 tpy despite the limitations of 40 CFR part 63 Subpart UUUUU, Tennessee reviewed long-term emission trends of this facility to assess the likelihood that its emissions would ever exceed the threshold. The long-term SO_2 emission trends for TVA Cumberland from 1995 through 2019 show that the source's SO_2 emissions have not exceeded 20,000 tpy since 1998 and that emissions have been below 10,000 tpy most years since 2011, and only slightly above 10,000 tpy in two years during this time period.[11] Cumberland's 2020 and 2021 actual SO_2 emissions continue to be below 10,000 tpy.[12]

The Eastman and Resolute FP, Inc. (Resolute) facilities are fuel-burning installations and are the only existing non-EGU emission sources that would potentially have to comply with paragraph 1200–03–14–.01(6)(b)(1) to be eligible to request termination of their requirement to operate an SO_2 monitor.[13] The permitted allowable emissions of both facilities are limited to less than 20,000 tpy, as described below. Eastman, however, would not meet the criteria for termination under 1200–03–14–.01(6)(b) at this time because it is located in an SO_2 nonattainment area (see Section II.C.2. for further discussion of Eastman).[14]

The Resolute facility is a paper mill in Calhoun (McMinn County), Tennessee. Tennessee's June 1, 2021, SIP revision indicates that SO_2 emissions from Resolute's power boilers F1, F2, and F3 are limited to 4,562 tons (total for all three boilers) during any period of 12 consecutive calendar months and that the multi-fuel boiler is limited to 489.7 tpy. Resolute's permitted allowable emission limits are also below the 20,000 tpy threshold proposed for removal at subparagraph 1200–03–14–.01(6)(b)(1), and the facility ceased burning coal in 2013, which further indicates that the facility's potential to exceed the 20,000 tpy threshold is unlikely in the future. For the two non-EGU fuel burning installations, Eastman and Resolute, allowable emissions are limited to less than 20,000 tpy, and recent add-on controls and additional planning considerations indicate the sources are not expected to exceed the emission threshold in the future.

TDEC's review of sources subject to 1200–03–14–.01(6) indicates that enforceable SO_2 emission reduction measures have resulted in a consistent downward trend of actual and/or allowable SO_2 emissions that are well below the 20,000 tpy threshold at of 1200–03–14–.01(6)(b)(1). The emission reduction measures include federal emission standards and emission limits based on repowering to natural gas. EPA's review of 2020 and 2021 actual SO_2 emissions data for the seven TVA sources also confirms a continuous declining trend in recent years.

In the future, any new or modified fuel burning installations constructed in Tennessee that would meet the applicability criteria of 1200–03–14–.01(6) would be subject to pre-construction permitting requirements and, potentially, New Source Performance Standards that would limit SO_2 emissions. It is expected that many of these larger new or modified sources would be subject to major new source review (major NSR) and, in this process, would be required to show that their emissions will not interfere with the NAAQS, or if subject to nonattainment new source review, obtain offsetting emission reductions. In addition, the demonstration required under 1200–03–14–.01(6)(a) that SO_2 emissions from these sources will not interfere with attainment or maintenance of the SO_2 NAAQS, either alone or in combination with other SO_2 sources, is still required for all subject sources.

In summary, of the ten facilities Tennessee has identified as either affected by the proposed revisions to paragraph 1200–03–14–.01(6): three (TVA John Sevier, Johnsonville and Allen) have retired their coal-fired units or replaced them with natural gas combined cycle plants and have extremely low SO_2 emissions; three (TVA Bull Run, Kingston, and Gallatin) have allowable SO_2 emissions less than 20,000 tpy based on compliance with 40 CFR part 63 Subpart UUUUU; one (TVA Cumberland) is also subject to 40 CFR part 63 Subpart UUUUU and has demonstrated actual SO_2 emissions below or near 10,000 tpy since 2011; two (Eastman and Resolute) have permitted allowable emissions less than 20,000 tpy; and one (Nyrstar) is not subject to the 20,000 tpy threshold criterion. In addition, nine of these facilities have already removed their monitors. For these reasons and based on the supporting information stated earlier in this preamble, EPA preliminarily concurs that the proposed removal of the 20,000 tpy emission threshold criteria at subparagraph 1200–03–14–.01(6)(b)(1) will not result in an increase in actual SO_2 emissions or deteriorate the current air quality in the vicinity of the applicable sources. Therefore, EPA proposes to find that Tennessee's section 110(*l*) non-interference demonstration adequately shows that the proposed changes at

[8] TVA Johnsonville's actual emissions where above 20,000 tpy in 2015, but all coal-fired units were retired by December 31, 2017. SO_2 emissions for 2018 and 2019 were 2 and 3 tpy, respectively. Additionally, TVA Gallatin's actual emissions where above 20,000 tpy in 2013, but SO_2 controls were installed at Gallatin Fossil Plant in 2016. Gallatin is subject to an SO_2 emission limit of 0.20 lb/MMBtu (40 CFR part 63 Subpart UUUUU).

[9] *See* Table 3 in Tennessee's section 110(*l*) demonstration.

[10] *See* Table 4 in Tennessee's section 110(*l*) demonstration.

[11] *See* Figure 1 in Tennessee's section 110(*l*) demonstration.

[12] *See https://campd.epa.gov/.*

[13] The Nyrstar facility, a zinc refinery in Clarksville, Tennessee, is not a fuel-burning installation and is not affected by subparagraph (b)(1) because it only applies to fuel burning installations.

[14] TDEC's 110(*l*) demonstration also includes information showing that Eastman's emissions are currently well below 20,000 tpy. TDEC points to a combined emissions limit and replacing coal-fired boilers with natural gas boilers at the B–253 boiler house resulting in an SO_2 emission decrease from 21,246 tpy in 2012 to 4,510 tpy in 2019.

1200–03–14–.01(6)(b)(1) will not interfere with any requirement concerning attainment or maintenance of the SO_2 NAAQS, RFP, or any other CAA requirement in the State.

2. CAA Section 110(*l*) Demonstration for Proposed Addition of Subparagraph 1200–03–14–.01(6)(d)

Tennessee's June 21, 2021, SIP revision, at new subparagraph 1200–03–14–.01(6)(d), proposes to update the State's SO_2 monitoring requirements by exempting any fuel burning installation or process emission source from the requirement to install an SO_2 monitor if the source is located ''in an area in which the Technical Secretary operates one or more ambient sulfur dioxide air quality monitors in the area under the influence of the source's emissions.'' EPA understands that any SO_2 air quality monitor operated by the Technical Secretary in lieu of an industrial monitor otherwise required by subparagraph 1200–03–14–.01(6)(b) must meet the requirements of 40 CFR part 58, *Ambient Air Quality Surveillance,* and would be a state and local air monitoring station (SLAMS) as defined at 40 CFR 58.1.[15]

As discussed earlier in this preamble, owners and operators of certain fuel-burning or process emission sources are directly affected by paragraph 1200–03–14–.01(6). Table 1 in Tennessee's June 1, 2021, SIP revision lists all the EGUs and process emission sources subject to 1200–03–14–.01(6). This list includes Eastman, and Eastman is the only source on the list that is located in a nonattainment area and therefore would not meet the eligibility criteria for termination of a monitor pursuant to 1200–03–14–.01(6)(b)(2).

To characterize SO_2 concentrations in the Sullivan County nonattainment area around Eastman, Tennessee began operating four SLAMS SO_2 monitors [16] in the vicinity of Eastman, within the 3-km SO_2 nonattainment area boundary, from 2016 through 2019 in accordance with an EPA-approved quality assurance project plan and EPA's regulatory requirements at Appendix D to 40 CFR part 58. Specifically, 40 CFR part 58 establishes the monitoring requirements for state or local air pollution control agencies and owners or operators of proposed sources, including minimum network requirements (*e.g.,* number and placement of monitors), operating schedules and methodology, and quality assurance procedures.

As explained in the June 1, 2021, submittal, TDEC has determined that because these requirements are more stringent than the requirements established in Eastman's title V operating permit, the proposed exemption at 1200–03–14–.01(6)(d) will not interfere with attainment or maintenance of a NAAQS and RFP, or any other applicable requirement of the CAA. Additionally, Tennessee concludes that it does not expect any increase in SO_2 emissions because of the proposed change.

Nyrstar is a zinc refinery in Clarksville, Tennessee, and is the only existing SO_2 emitting source in the State that currently monitors SO_2 emissions pursuant to 1200–03–14–.01(6). TDEC does not operate a monitor in the vicinity of Nyrstar.

EPA believes Tennessee's existing SLAMS SO_2 network in Sullivan County is properly sited and operated under an approved quality assurance project plan and in accordance with 40 CFR part 58, which provides prescriptive and technically credible methods for characterizing SO_2 ambient air concentrations around the Eastman facility. Therefore, EPA has preliminarily determined that the current SO_2 monitoring network near Eastman provides an acceptable alternative to the monitoring otherwise required under 1200–03–14–.01(6)(b) and thus preliminarily concurs with Tennessee's non-interference demonstration that the proposed addition of subparagraph 1200–03–14–.01(6)(d) will not interfere with attainment or maintenance in the Sullivan County area.

More generally, any SO_2 air quality monitor operated by the Technical Secretary in lieu of an industrial monitor otherwise required by subparagraph 1200–03–14–.01(6)(b) must meet the requirements of 40 CFR part 58, *Ambient Air Quality Surveillance,* and would be a state and local air monitoring station (SLAMS) as defined at 40 CFR 58.1.[17] EPA believes that SLAMS monitors provide an acceptable alternative to the monitoring otherwise required under 1200–03–14–.01(6)(b), and notes that EPA approves state monitoring plans annually, which includes the placement of SLAMS monitors.[18] Thus, EPA is proposing to approve the addition of subparagraph (d) to 1200–03–14–.01(6).

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as described in Section I through III of this preamble, EPA is proposing to incorporate by reference TAPCR 1200–03–14–.01, *General Provisions,* state effective on May 31, 2021, into the Tennessee SIP. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

For the reasons provided in this preamble, EPA is proposing to approve Tennessee's June 1, 2021, SIP submission revising paragraph 1200–03–14–.01(6). The SIP revision changes Tennessee's SO_2 regulations that require applicable sources to demonstrate that the source's SO_2 emissions will not interfere with attainment or maintenance and to install and maintain or terminate SO_2 ambient air monitors near these large SO_2 emitting sources. The SIP submittal also includes a CAA section 110(*l*) non-interference demonstration that the proposed rule changes will not interfere with attainment or maintenance of the NAAQS.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission

[15] *See* emails dated November 4, 2022, included in the docket for this proposed action.

[16] The four SLAMS monitors include Ross N. Robinson (AQS ID: 47–163–6001), on September 1, 2016; Skyland Drive (AQS ID: 47–163–6002) on September 1, 2016; Happy Hill (AQS ID: 47–163–6004) in October 2018 and Andrew Johnson Elementary School (AQS ID: 47–163–6003) in January 2019.

[17] *See* emails dated November 4, 2022, included in the docket for this proposed action.

[18] EPA's monitoring requirements are specified in 40 CFR part 58 and are applicable to the state, and where delegated, to local air monitoring agencies that operate criteria pollutant monitors. Part 58 establishes specific requirements for operating air quality surveillance networks to measure ambient concentrations of SO_2, including requirements for measurement methods, network design, quality assurance procedures, and the minimum number of monitoring sites designated as SLAMS. Appendix D to part 58 addresses SO_2 monitoring and calls for the overall SLAMS network to be designed to meet a minimum of six basic ambient air monitoring site types including, among other things, determining the highest concentrations expected to occur in the area covered by the network, determining representative concentrations in areas of high population density, and determining the impact on ambient pollution levels of significant sources or source categories on air quality. SLAMS produce data that are eligible for comparison with the NAAQS, and therefore, the monitor must be an approved federal reference method, federal equivalent method, or approved regional method monitor.

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: November 29, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–26331 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2021–0791; FRL–8599–01–OW]

RIN 2040–AG17

Water Quality Standards Regulatory Revisions To Protect Tribal Reserved Rights

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing revisions to the Federal Clean Water Act (CWA) water quality standards (WQS) regulation to clarify and prescribe how WQS must protect aquatic and aquatic-dependent resources reserved to tribes through treaties, statutes, executive orders, or other sources of Federal law, where applicable.

DATES: Comments must be received on or before March 6, 2023. Comments on the information collection provisions submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) are best assured of consideration by OMB if OMB receives a copy of your comments on or before January 4, 2023. *Public Hearing:* EPA will hold two online public hearings during the public comment period. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearings.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2021–0791, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday through Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *http://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.

EPA is offering two online public hearings on this proposed rulemaking. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT: Jennifer Brundage, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–1265; email address: *brundage.jennifer@epa.gov.* Additional information is also available online at *https://www.epa.gov/wqs-tech/protecting-tribal-reserved-rights-in-WQS.*

SUPPLEMENTARY INFORMATION: This proposed rule is organized as follows:

I. Public Participation
  A. Written Comments
  B. Public Hearings
II. General Information
  A. Does this action apply to me?
III. Background
  A. Clean Water Act Requirements
  B. Tribal Reserved Rights
  C. Tribal Reserved Rights and Water Quality Standards
IV. Proposed Revisions to the Federal WQS Regulation
  A. Why is EPA proposing these revisions?
  B. What is EPA proposing?
  C. How would the proposed regulatory revisions be applied?
  D. EPA's Role
  E. How would the proposed regulatory revisions apply to States in the Great Lakes system?
  F. Role of Other WQS Provisions in Protecting Tribal Reserved Rights

V. Economic Analysis
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563 Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act of 1995
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2021–0791, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), 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. 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 or multimedia submissions; and general guidance on making effective comments.

B. Public Hearings

EPA is offering two online public hearings so that interested parties may provide oral comments on this proposed rulemaking. For more details on the online public hearings and to register to attend the hearings, please visit *https://www.epa.gov/wqs-tech/protecting-tribal-reserved-rights-in-WQS.*

II. General Information

A. Does this action apply to me?

States [1] responsible for administering or overseeing water quality programs may be affected by this rulemaking, as states may need to consider and implement new provisions, or revise existing provisions, in their WQS. Federally recognized Indian tribes [2] with reserved rights [3] to aquatic and/or aquatic-dependent resources may also be affected by this rulemaking. Entities that are subject to CWA regulatory programs, such as industries, stormwater management districts, or publicly owned treatment works (POTWs) that discharge pollutants to waters of the United States could be indirectly affected by this rulemaking. Dischargers that could potentially be affected include the following:

TABLE 1—DISCHARGERS POTENTIALLY AFFECTED BY THIS RULEMAKING

Category	Examples of potentially affected entities
Industry	Industries discharging pollutants to waters of the United States.
Municipalities	POTWs or other facilities discharging pollutants to waters of the United States.
Stormwater Management Districts	Entities responsible for managing stormwater runoff.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that could be indirectly affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. Background

A. Clean Water Act Requirements

The CWA establishes the basic structure for regulating pollutant discharges into waters of the United States. In the CWA, Congress established the national objective to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters,'' and to achieve ''wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water'' (CWA sections 101(a) and 101(a)(2)).

CWA section 303(c) directs states to adopt WQS for waters of the United States. The core components of WQS are designated uses, water quality criteria, and antidegradation requirements. Designated uses establish the environmental objectives for a water body, such as public drinking water supply, propagation of fish, shellfish and wildlife, and recreation. Water quality criteria define the minimum conditions necessary to achieve those environmental objectives. Antidegradation requirements maintain and protect water quality.

WQS serve as the basis for several CWA programs, including:

- Section 303(d) water body assessments and determinations of total maximum daily loads (TMDLs);
- Section 401 certifications of Federal licenses and permits;
- Water quality-based effluent limits in permits issued through state or National Pollutant Discharge Elimination System (NPDES) Programs under section 402; and
- Section 404 permits for dredged or fill material.

Section 303(c)(2)(A) of the CWA provides that ''[water quality] standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this chapter. Such standards shall be established taking into consideration

[1] Pursuant to 40 CFR 131.3(j), ''states'' include the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and Indian tribes that EPA determines to be eligible for purposes of the WQS program.

[2] *See* Federally Recognized Indian Tribe List Act of 1944, 25 U.S.C. 479a. The current list can be found at 87 FR 4636 through 4641 (January 28, 2022).

[3] EPA proposes to define ''tribal reserved rights'' as ''any rights to aquatic and/or aquatic-dependent resources reserved or held by tribes, either expressly or implicitly, through treaties, statutes, executive orders, or other sources of Federal law.''

their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.'' CWA section 303(c)(2)(A) and EPA's implementing regulation at 40 CFR part 131 require, among other things, that a state's WQS specify appropriate designated uses of the waters and water quality criteria to protect those uses. Such criteria must be based on sound scientific rationale, must contain sufficient parameters to protect the designated use, must support the most sensitive use where multiple use designations apply, and may be expressed in either narrative or numeric form.[4] *See* 40 CFR 131.11(a) and (b). In addition, 40 CFR 131.10(b) provides that in designating uses of a water body and establishing criteria to protect those uses, the state shall ''. . . ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.''

Antidegradation requirements provide a framework for maintaining and protecting water quality that has already been achieved (40 CFR 131.12). States can also choose to include general policies in their WQS that affect WQS implementation, such as WQS variance policies and mixing zone policies (40 CFR 131.13).

States are required to review applicable WQS at least once every three years (''triennial review'') and, if appropriate, to revise or adopt new standards (CWA section 303(c)(1)). Any new or revised WQS must be submitted to EPA for review. If EPA disapproves a state's new or revised WQS, the CWA provides the state ninety days to adopt a revised WQS that meets CWA requirements. If a state fails to meet that deadline, EPA is required to promptly propose and promulgate a new standard that meets CWA requirements.

CWA section 303(c)(4)(B) authorizes the Administrator to determine, even in the absence of a state submission, that a new or revised standard is necessary to meet CWA requirements. Once the Administrator makes such a determination, the agency must ''promptly'' propose an appropriate WQS and finalize it within 90 days unless the state adopts an acceptable standard in the interim. CWA section 501(a) authorizes the Administrator to ''prescribe such regulations as are necessary to carry out his functions under this chapter.'' Finally, as further discussed in section III.C. of this preamble, CWA section 511(a)(3) provides that the Act ''shall not be construed as . . . affecting or impairing the provisions of any treaty of the United States.''

B. Tribal Reserved Rights

For the purposes of this proposed rulemaking, ''tribal reserved rights'' means any rights to aquatic and/or aquatic-dependent resources reserved or held by tribes, either expressly or implicitly, through treaties, statutes, executive orders, or other sources of Federal law.[5] Tribal reserved rights as defined in this proposed rulemaking generally do not address the quantification of *Winters* rights.[6] The Court has described tribal reserved rights to fish and access fishing locations as ''not much less necessary to the existence of the Indians than the atmosphere they breathed[.]'' [7] EPA recognizes that tribal reserved rights to use and access natural and cultural resources are an intrinsic part of tribal life and are of deep cultural, economic, and subsistence importance to tribes.[8]

The U.S. Constitution defines treaties as part of the supreme law of the land, with the same legal force as Federal statutes.[9] From 1778 to 1871, the U.S.' relations with tribes were defined and conducted largely through treaty-making. In 1871, Congress stopped making treaties with tribes,[10] and subsequent agreements between tribes and the Federal government were instead generally memorialized through Executive orders, statutes, and other agreements, such as congressionally enacted Indian land claim settlements. Instruments other than treaties may also reserve tribal rights, with equally binding effect.[11] As one court explained, generally ''it makes no difference whether . . . [tribal] rights derive from treaty, statute or executive order, unless Congress has provided otherwise.'' [12] Pursuant to the Constitution's Supremacy Clause, treaties and statutes also bind states.[13]

Courts generally adhere to several guiding principles in interpreting treaties and other Federal legal instruments regarding Indians tribes known as the ''Indian canons of construction.'' In accordance with these canons, ''Indian treaties are to be interpreted liberally in favor of the Indians, and any ambiguities are to be

[4] Special requirements apply to ''priority toxic pollutants.'' CWA Section 303(c)(2)(B) requires states to adopt numeric criteria, where available, for all toxic pollutants listed pursuant to CWA Section 307(a)(1) for which EPA has published 304(a) criteria, as necessary to support the states' designated uses. ''Priority toxic pollutants'' are identified in 40 CFR part 423, Appendix A—126 Priority Pollutants. Consistent with § 131.11(a)(2), where a state or authorized tribe adopts narrative criteria for priority pollutants to protect designated uses, it must also provide information identifying the method by which it intends to regulate point source discharges of priority pollutants in water quality-limited waters based on such narrative criteria.

[5] Treaty rights are ''reserved'' by tribes, because, as the U.S. Supreme Court has explained, treaties are ''not a grant of rights to the Indians, but a grant of rights from them, a reservation of those not granted.'' *United States* v. *Winans,* 198 U.S. 371, 381 (1905).

[6] Under *Winters* v. *United States* and its progeny, the establishment of a Federal reservation (Indian or otherwise) implicitly reserves sufficient water to accomplish the purposes of the reservation. 207 U.S. 564, 576 (1908); *Cappaert* v. *United States,* 426 U.S. 128, 139 (1976); *Arizona* v. *California,* 373 U.S. 546, 597–602 (1963).

[7] *Winans,* 198 U.S. at 381.

[8] *See* 2021 Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights. Available online at *https://www.doi.gov/sites/doi.gov/files/interagency-mou-protecting-tribal-treaty-and-reserved-rights-11-15-2021.pdf.*

[9] U.S. Constitution, Art. VI, cl. 2 (''This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.'')

[10] *See* Act of Mar. 3, 1871, § 1, 16 Stat. 544 (codified as carried forward at 25 U.S.C. 71).

[11] *See* Cohen's Handbook of Federal Indian Law § 18.02 (Nell Jessup Newton et al eds., 2005) (''Statutes and agreements that are ratified by Congress become, like treaties, the supreme law of the land'').

[12] *Parravano* v. *Masten,* 70 F.3d 539, 545 (9th Cir. 1995), cert. denied, *Parravano* v. *Babbitt,* 518 U.S. 1016 (1996); *see also United States* v. *Dion,* 476 U.S. 734, 745, n.8 (''Indian reservations created by statute, agreement, or executive order normally carry with them the same implicit hunting rights as those created by treaty.'').

[13] *Antoine* v. *Washington,* 420 U.S. 194, 205 (1975) (like a treaty, when Congress by statute ratifies an agreement that reserves tribal rights, ''State qualification of the rights is precluded by force of the Supremacy Clause, and neither an express provision precluding state qualification nor the consent of the State [is] required''); *U.S.* v. *Washington,* 853 F.3d 946, 966 (9th Cir. 2017) (Holding that ''in building and maintaining barrier culverts within the Case Area, Washington has violated, and is continuing to violate, its obligation to the Tribes under the Treaties.'') *aff'd,* 138 S.Ct. 1832 (per curiam); *Skokomish Indian Tribe* v. *United States,* 410 F.3d 506, 512 (9th Cir. 2005) (Treaties ''constitute the 'supreme law of the land''' and have ''been found to provide rights of action for equitable relief against non-contracting parties,'' and such equitable relief ''ensures compliance with a treaty; that is, it forces state governmental entities and their officers to conform their conduct to federal law.''); *see also Minnesota* v. *Mille Lacs Band of Chippewa Indians,* 526 U.S. 172, 204 (1999) (noting that ''[a]lthough States have important interests in regulating wildlife and natural resources within their borders, this authority is shared with the Federal Government when the Federal Government exercises one of its enumerated constitutional powers, such as treaty making,'' and accordingly, the treaty in that case gave the Chippewa Tribe ''the right to hunt, fish, and gather in the ceded territory free of . . . state, regulation.'').

resolved in their favor.'' [14] Further, treaties ''are to be construed as the Indians would have understood them'' at the time of signing.[15] Although Congress may abrogate Indian treaty rights, those rights remain absent clear evidence of congressional intent.[16] While these Indian canons of construction originated in the context of treaty interpretation by Federal courts, courts have also applied the canons in other contexts,[17] including determining the scope of tribes' rights under statutes or executive orders setting aside land for tribes.[18] Some tribes have treaty rights that are no longer enforceable because they have been abrogated or otherwise superseded by Congress in later Federal statutes.[19] In addition, some tribes negotiated treaties with the U.S. government that were not ratified.[20]

Tribal reserved rights may apply to waters in Indian country as well as outside of Indian country [21] and may be express or implied.[22] For example, in certain states in the Great Lakes region, tribal reserved rights include hunting, fishing, and gathering rights both within tribes' reservations, as well as rights retained outside these reservations in specific areas that the tribes ceded to the Federal government.[23] In the Pacific Northwest, treaties explicitly reserved to many tribes rights to fish in their ''usual and accustomed'' fishing grounds and stations both within and outside their reservation boundaries and to hunt and gather throughout their traditional territories.[24] In addition to tribes whose rights are reserved through treaties, other tribes have statutorily-reserved rights. For example, tribes in Maine have statutorily-reserved rights to practice traditional sustenance lifeways such as fishing in certain waters.[25]

Courts also have held that tribal reserved rights encompass subsidiary rights that are not explicitly addressed in treaty or statutory language but are necessary to render those rights meaningful.[26] For example, in *United States* v. *Winans,* 198 U.S. 371, 381 (1905), the Supreme Court explained that the right of ''taking fish at all usual and accustomed places,'' necessarily included the right to cross private lands to reach those fishing areas, noting that ''[n]o other conclusion would give effect to the treaty.'' [27]

C. Tribal Reserved Rights and Water Quality Standards

Tribal reserved rights to aquatic resources could be impaired by water quality levels that limit right holders' ability to utilize their rights. Indeed, as described in section III.B of this preamble, courts have recognized that the right to a specific resource necessarily includes attendant protections in order to be rendered meaningful.[28] In exercising its CWA section 303(c) authority, EPA has an obligation to ensure that its actions are consistent with treaties, statutes, executive orders, and other sources of Federal law reflecting tribal reserved rights. While there may be instances where a later-enacted statutory provision intentionally limits reserved rights,[29] that is not the case with section 303(c) of the CWA. First, with respect to

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[14] *Mille Lacs,* 526 U.S. at 200 (internal citations omitted); *see also County of Oneida* v. *Oneida Indian Nation,* 470 U.S. 226, 247 (1985) (''it is well established that treaties should be construed liberally in favor of the Indians with ambiguous provisions interpreted for their benefit'').

[15] *Mille Lacs,* 526 U.S. at 196 (''[W]e interpret Indian treaties to give effect to the terms as the Indians themselves would have understood them.''); *Jones* v. *Meehan,* 175 U.S. 1, 11 (1899) (A ''treaty must therefore be construed, not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by the Indians.'').

[16] *Mille Lacs,* 526 U.S. at 202 (''Congress may abrogate Indian treaty rights, but it must clearly express its intent to do so.''); *United States* v. *Dion,* 476 U.S. 734, 739–40 (1986) (noting that in finding congressional intent to abrogate ''[w]hat is essential is clear evidence that Congress actually considered the conflict between its intended action on the one hand and the Indian treaty rights on the other, and chose to resolve that conflict by abrogating the treaty'').

[17] *See e.g., Hagen* v. *Utah,* 510 U.S. 399, 423–24 (1994) (''For more than 150 years, we have applied this canon in all areas of Indian law to construe congressional ambiguity or silence, in treaties, statutes, executive orders, and agreements, to the Indians' benefit.''); *County of Yakima* v. *Confederated Tribes,* 502 U.S. 251, 268–69 (1992) (quoting *Montana* v. *Blackfeet Tribe,* 471 U. S. 759, 766 (1985)) (''statutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit''); *Alaska Pacific Fisheries Co.* v. *U.S.,* 248 U.S. 78, 89 (1918) (''statutes passed for the benefit of dependent Indian tribes or communities are to be liberally construed, doubtful expressions being resolved in favor of the Indians''); *but see Penobscot Nation* v. *Frey,* 3 F.4th 484, 502 (1st Cir. 2021) (holding that the Indian canons of construction were inapplicable to statutes settling Indian land claims in Maine).

[18] *See Winters,* 207 U.S. at 576–77 (applying the canons and holding that the Tribe was entitled to federally reserved rights to the Milk River); *Parravano,* 70 F.3d at 544 (applying the canons to determine the scope of tribes' reserved fishing rights under executive orders and a statute).

[19] U.S. Constitution, Art. II, § 2, cl. 2; *S. Dakota* v. *Bourland,* 508 U.S. 679, 690 (1993) (Statutory language providing that ''the sum paid by the Government to the Tribe for former trust lands taken for the Oahe Dam and Reservoir Project, 'shall be in final and complete settlement of all claims, rights, and demands' of the Tribe or its allottees'' made clear that the Tribe no longer retained its treaty right to regulate hunting and fishing); *Dion,* 476 U.S. at 739 (While Congress has the power to abrogate a treaty, ''the intention to abrogate or modify a treaty is not to be lightly imputed . . . Indian treaty rights are too fundamental to be easily cast aside.''); *U.S.* v. *McAlester,* 604 F.2d 42, 62–63 (10th Cir. 1979) (describing the history of the Choctaw Tribe's treaty-making with the United States, including several treaties in the late 1700s and early 1800s providing rights to lands that were later lost due to the Indian Removal Act of 1830, which ''finally forced the Choctaw Nation to agree . . . to relinquish all its lands east of the Mississippi River and to settle on lands west of the Arkansas Territory'').

[20] *Robinson* v. *Jewell,* 790 F.3d 910, 918 (9th Cir. 2015) (holding that an 1851 Treaty was never ratified by the Senate and thus carries no legal effect.'').

[21] Indian country is defined at 18 U.S.C. 1151 as: (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

[22] *See Menominee Tribe of Indians* v. *U.S.,* 391 U.S. 404, 406, (1968) (Noting that ''nothing was said in the 1854 treaty about hunting and fishing rights,'' but holding that such rights were implied, as the treaty phrase '''to be held as Indian lands are held' includes the right to fish and to hunt.''); *Makah Indian Tribe* v. *Quileute Indian Tribe,* 873 F.3d 1157, 1160 (9th Cir. 2017), *cert. denied* 139 S. Ct. 106 (2018) (Affirming district court finding that, based on historical and linguistic evidence, that use of the term ''fish'' in the Treaty of Olympia encompassed whales and seals).

[23] *See e.g.,* Treaty with the Chippewas, 1837, art. 5, 7 Stat. 536 (tribes retained ''[t]he privilege of hunting, fishing, and gathering the wild rice, upon the lands, the rivers and the lakes included in the territory ceded''); *Minnesota* v. *Mille Lacs Band of Chippewa Indians,* 526 U.S. 172 (1999).

[24] *See, e.g.,* Treaty with the Nez Perces, 1855, art. 3, 12 Stat. 957; Treaty with the Nisquallys, etc., 1854, art. 3, 10 Stat. 1132 (Treaty of Medicine Creek).

[25] *See* Maine Implementing Act, 30 M.R.S 6207(4), (9).

[26] *See, e.g., U.S.* v. *Washington,* 853 F.3d 946, 966 (9th Cir. 2017) (Holding that tribes' treaty-reserved right to fish in their usual and accustomed areas imposed a duty on the State of Washington to replace or modify road culverts to allow the free passage of salmon) *aff'd,* 138 S.Ct. 1832 (per curiam); *Winans,* 198 U.S. at 384 (Holding that a tribe's treaty fishing right also encompassed the right to cross private property to access the tribe's traditional fishing ground); *Grand Traverse Band of Ottawa and Chippewa Indians* v. *Director, Mich. Dept of Nat. Resources,* 141 F.3d 635 (6th Cir. 1989) (Finding that the treaty right to fish commercially in the Great Lakes included a right to temporary mooring of treaty fishing vessels at municipal marinas because without such mooring the Indians could not fish commercially).

[27] *See also Washington,* 853 F.3d at 965 (Explaining that the right of access to ''usual and accustomed fishing places would be worthless without harvestable fish.'')

[28] Consistent with this precedent, the Department of the Interior has affirmed the principle that ''to be rendered meaningful, [tribal reserved] fishing rights by necessity include some subsidiary rights to water quality.'' Letter from Hilary C. Tompkins, Solicitor, DOI, to Avi Garbow, General Counsel, EPA, regarding Maine's WQS and Tribal Fishing Rights of Maine Tribes (January 30, 2015).

[29] *See Dion,* 476 U.S. at 739 (Finding that ''Congressional intent to abrogate Indian treaty rights to hunt bald and golden eagles is certainly strongly suggested on the face of the Eagle Protection Act.'').

treaty-reserved rights, the CWA explicitly provides in section 511(a)(3) that the Act ''shall not be construed as . . . affecting or impairing the provisions of any treaty of the United States.'' Second, more broadly, the statute's structure and objectives for the establishment and oversight of WQS, including the discretion afforded to EPA, provide ample room for the agency to consider and give effect to all applicable reserved rights.

In CWA section 303(c), Congress established broad directives and objectives governing the establishment of WQS. Specifically, the CWA requires that WQS shall consist of designated uses and criteria to protect those uses, and must protect the public health and welfare, enhance the quality of water, and serve the purposes of the Act. *See* CWA section 303(c)(2)(A). In implementing section 303(c), EPA's longstanding position has been, consistent with the objectives of the CWA, to ''use standards as a basis of restoring and maintaining the integrity of the Nation's waters.'' [30] Where tribes have reserved rights to aquatic and/or aquatic-dependent resources, protection of such rights falls within the ambit of these broad statutory directives and objectives and is consistent with EPA's longstanding general approach to implementing CWA section 303(c), including through adoption and revision of its WQS regulation.

CWA section 501 authorizes the agency to prescribe regulations as necessary to implement the Act.[31] Pursuant to that authority, EPA has issued a regulation that provides a framework for implementing CWA section 303(c) and related sections, translating the broad statutory provisions in section 303(c) into specific requirements consistent with the statutory scheme. Accordingly, EPA's implementing regulation at 40 CFR part 131 specifies requirements for states and authorized tribes to develop WQS for EPA review that are consistent with the Act. EPA's existing WQS regulation does not, however, explicitly address how WQS must protect tribal reserved rights.

EPA established the core of the WQS regulation in a final rule issued in 1983. Since that time, the agency has modified 40 CFR part 131 three times.[32] The agency has explained that such updates have been in response to new challenges that ''necessitate a more effective, flexible and practicable approach for the implementation of WQS and protecting water quality,'' and that such updates are informed by the extensive experience with WQS implementation by states, authorized tribes, and EPA.[33] As described further below, EPA has previously addressed tribal reserved rights in exercising its oversight authority in reviewing state-adopted WQS. In this rulemaking, EPA is exercising its discretion in implementing CWA section 303(c) to propose new regulatory requirements to ensure that WQS give effect to rights to aquatic and aquatic-dependent resources reserved in Federal laws. With this update to 40 CFR part 131, the agency is proposing to establish a transparent and consistent process by which states and EPA can set WQS that protect applicable reserved rights.

EPA has previously addressed tribal reserved rights in state-specific WQS actions. In 2015, EPA disapproved certain human health criteria adopted by the State of Maine because they did not adequately protect a sustenance fishing designated use. The sustenance fishing designated use was based in part on tribal reserved rights.[34] In 2016, in promulgating human health criteria for the State of Washington, EPA noted that most waters covered by the State's WQS were subject to Federal treaties that retained and reserved tribal fishing rights. The agency concluded that these rights must be considered when establishing criteria to protect the State's fish harvesting designated use.[35]

These actions followed a December 2014 Memorandum from EPA Administrator Gina McCarthy which explicitly recognized EPA's obligations with respect to tribal treaty rights.[36] This Memorandum was issued to commemorate the 30th anniversary of EPA's 1984 Indian Policy, which addressed many issues related to EPA's relationship with federally recognized tribes and implementation of EPA's statutes in Indian country, but did not expressly address EPA's considerations of tribal treaty and other reserved rights.[37] In pertinent part, the 2014 Memorandum provides that ''EPA has an obligation to honor and respect tribal rights and resources protected by treaties,'' and that ''EPA must ensure that its actions do not conflict with tribal treaty rights.'' [38] In 2016, as part of the agency's efforts to implement the Memorandum, EPA issued an addendum to its tribal consultation policy entitled ''Guidance for Discussing Tribal Treaty Rights'' with the purpose of enhancing EPA consultations where EPA actions may affect tribal treaty rights.[39] The goal of this document was to help ensure that EPA's actions do not conflict with treaty rights, and that EPA is fully informed as it seeks to implement its programs to further protect treaty rights and resources when it has discretion to do so.[40] Even before this Guidance was issued in 2016, EPA routinely undertook extensive consultation with tribes. For example, in the agency's actions in Maine and Washington with regard to WQS, EPA undertook extensive consultation with the federally recognized tribes in Maine and Washington which included, consistent with the objectives of that guidance, gathering information regarding relevant reserved rights.[41]

[30] *Water Quality Standards Regulation,* 48 FR 51400 (November 8, 1983).

[31] *See also E. I. du Pont de Nemours & Co.* v. *Train,* 430 U.S. 112, 132 (1977) (''501(a) . . . gives EPA the power to make 'such regulations as are necessary to carry out' its functions'').

[32] *See Water Quality Standards Regulatory Revisions,* 80 FR 51020, 51021 (August 21, 2015) (Describing the history of EPA's regulation at 40 CFR part 131).

[33] *Id.*

[34] Letter from H. Curtis Spalding, Regional Administrator, EPA Region 1, to Patricia W. Aho, Commissioner, Maine Department of Environmental Protection, ''Re: Review and Decision on Water Quality Standards Revisions'' (February 2, 2015). After subsequent collaboration among the State, EPA, and the tribes, in 2019 the State of Maine adopted a new sustenance fishing designated use subcategory which addresses tribal sustenance fishing. In 2020, after approving this new designated use subcategory, EPA withdrew most aspects of its 2015 decisions. The expectations and steps EPA proposes here reaffirm the general analytical framework the agency applied in the 2015 decisions.

[35] 81 FR 85417, 85422 through 85423 (November 28, 2016).

[36] U.S. EPA, Memorandum, *Commemorating the 30th Anniversary of the EPA Indian Policy* (December 1, 2014), *available https://www.epa.gov/sites/production/files/2015-05/documents/indianpolicytreatyrightsmemo2014.pdf.*

[37] *Id. See also* U.S. EPA, EPA Policy for the Administration of Environmental Programs on Indian Reservations (November 8, 1984), *available https://www.epa.gov/sites/default/files/2015-04/documents/indian-policy-84.pdf.*

[38] *Id.*

[39] U.S. EPA, *EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (February 2016), *available https://www.epa.gov/sites/default/files/2016-02/documents/tribal_treaty_rights_guidance_for_discussing_tribal_treaty_rights.pdf.*

[40] U.S. EPA, *Overview: EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights* (February 2016), *available https://www.epa.gov/sites/default/files/2016-02/documents/tribal_treaty_rights_guidance_for_discussing_tribal_treaty_rights.pdf.*

[41] *See* U.S. EPA Region 1, Responses to Public Comments Relating to Maine's January 14, 2013, Submission to EPA for Approval of Certain of the State's New and Revised Water Quality Standards (WQS) That Would Apply in Waters Throughout Maine, Including Within Indian Territories or Lands (January 30, 2015), at 1540 (describing tribal consultation); 81 FR 85417 at 85435 (November 28, 2016).

Although the agency did not rescind the Memorandum and Guidance for Discussing Tribal Treaty Rights, following EPA's 2015 and 2016 WQS actions in Maine and Washington, the agency did make statements in subsequent WQS actions disavowing the approach to protecting tribal reserved rights in the Maine and Washington actions. In response to comments on a 2020 decision reversing aspects of EPA's 2015 Maine WQS disapproval, EPA asserted that it was ''unnecessary'' to ensure protection of applicable statutorily reserved rights because the Indian land claims settlement statutes at issue did not ''themselves . . . address or reference designated uses, water quality criteria, or the desired condition or use goal of the waters covered by the sustenance fishing provisions.'' [42] EPA has reconsidered this assertion. EPA finds that implementing the CWA to give effect to applicable reserved rights to aquatic and/or aquatic-dependent resources does not require that the relevant treaty, statute, executive order, or legal instrument explicitly reference water quality. The agency has similarly reconsidered other statements the agency made indicating that states and EPA can always protect tribal reserved rights by simply applying EPA's existing regulations and guidance, with no additional consideration of such rights.[43] As explained further below, this proposed rulemaking adds regulatory requirements to clarify how EPA and states must ensure protection of reserved rights where they apply.

IV. Proposed Revisions to the Federal WQS Regulation

A. Why is EPA proposing these revisions?

In this proposed rulemaking, the agency is proposing to establish new requirements which build on existing regulations and applicable guidance, to provide a nationally applicable regulatory framework to ensure that WQS protect applicable reserved rights. These revisions to EPA's existing WQS regulation are intended to provide clarity, predictability, and transparency in EPA's review of state WQS and promulgation of Federal WQS in waters where reserved rights to aquatic and/or aquatic-dependent resources apply. Specifically, by amending EPA's WQS regulation, rather than addressing these rights on a case-by-case basis as state WQS are submitted for EPA review under CWA section 303(c), EPA is proposing a uniform approach for establishment of WQS where tribal reserved rights apply and clearly laying out how EPA will review such WQS. These proposed changes are informed by EPA's experience working with states and right holders, and by input they have provided. Because EPA is establishing these requirements in a rulemaking rather than during review of an individual state action, the agency's approach will be informed by public comment and input provided through tribal consultation.

Notably, when EPA promulgated the WQS regulation at 40 CFR part 131 in 1983, the agency considered adding regulatory requirements to ensure that state WQS complied with applicable international treaties. Specifically, in the 1983 final rule establishing the WQS regulation, the agency noted that it had received comments asserting that EPA should ''require States to adopt standards that meet treaty requirements.'' [44] In response, the agency noted that such issues ''have been adequately resolved previously without the need for regulatory language,'' and, accordingly, that ''EPA sees no need to include such language in the Final Rule.'' [45] The agency further reasoned that ''[a]ny specific treaty requirements have the force of law,'' and therefore, ''State water quality standards will have to meet any treaty requirements.'' [46] Here, based on its prior experience evaluating individual state WQS in light of applicable reserved rights, EPA is proposing to add specific requirements to its WQS regulation to guide states establishing WQS in waters where tribes exercise reserved rights. These proposed requirements reflect the agency's considered judgment about how to ensure that WQS protect applicable reserved rights, and will provide clarity, transparency, and predictability.

This proposal is particularly important now, as climate change is exacerbating water quality issues across the United States. Tribes and reserved rights are particularly vulnerable to these impacts due to the integral nature of water resources in their traditional lifeways and culture.[47] Establishing WQS to protect tribal reserved rights is a critical component of reducing the impact of climate change on tribes.

B. What is EPA proposing?

In this rulemaking, EPA is proposing to (1) amend the Federal WQS regulation at 40 CFR part 131 to require that WQS be established to protect tribal reserved rights, and (2) establish attendant regulatory requirements for setting WQS to provide such protection. This section provides a description of these proposed revisions.

Central to these regulatory changes is the proposed addition of 40 CFR 131.9. First, this provision would specify that WQS ''must protect tribal reserved rights applicable to waters subject to such standards.'' For purposes of these regulatory revisions, EPA proposes adding a new definition to 40 CFR 131.3, defining ''tribal reserved rights'' as ''any rights to aquatic and/or aquatic-dependent resources reserved or held by tribes, either expressly or implicitly, through treaties, statutes, executive orders, or other sources of Federal law.'' The proposed definition of ''tribal reserved rights'' in the rule does not apply to unratified treaties or reserved rights that have been abrogated or otherwise superseded. In addition, some tribes entered into legal agreements or compacts with states, which are not Federal law and are therefore similarly not within the scope of this rulemaking.

Second, proposed 40 CFR 131.9(a) would require that, ''to the extent supported by available data and information,'' to protect applicable tribal reserved rights WQS must be established to protect:

1. ''The exercise of tribal reserved rights unsuppressed by water quality or availability of the aquatic or aquatic-dependent resource;'' and

2. ''The health of the right holders to at least the same risk level as provided to the general population of the State.''

For purposes of these regulatory revisions, EPA proposes adding a new definition to 40 CFR 131.3, defining ''right holders'' as ''tribes holding rights to aquatic and/or aquatic-dependent resources pursuant to an applicable treaty, statute, executive order, or other source of Federal law.''

EPA is not proposing to require WQS to be established for every waterbody subject to a reserved right to protect the

[42] U.S. EPA, *Response to Comments on EPA's Proposal to Revise EPA's 2015 Decisions on Sustenance Fishing Designated Use and Human Health Criteria in Maine* (May 27, 2020), p. 20. Attachment B of letter from Dennis Deziel, Administrator, EPA Region 1, to Gerald Reid, Commissioner, Maine Department of Environmental Protection, RE *Withdrawal of Certain of EPA's February 2, 2015 Decisions Concerning Water Quality Standards for Waters in Indian Lands.*

[43] *See* U.S. EPA, Letter and enclosed Technical Support Document from Chris Hladick, Regional Administrator, EPA Region 10, to Maia Bellon, Director, Department of Ecology, Re: EPA's Reversal of the November 15, 2016 Clean Water Act Section 303(c) Partial Disapproval of Washington's Human Health Water Quality Criteria and Decision to Approve Washington's Criteria (May 10, 2019), p. 22–23 (''May 10, 2019 Decision Document'').

[44] 48 FR 51400, 51412 (November 8, 1983).

[45] *Id.*

[46] *Id.* at 51413.

[47] *See https://www.epa.gov/sites/default/files/2016-04/documents/ow-climate-change-adaptation-plan.pdf.*

waterbody condition that existed at the time a reserved right was established. As described more fully below in section C.2.ii of this preamble, the regulation is intended to result in WQS that protect reasonably anticipated future uses, taking into account factors that may have substantially altered a waterbody.

Proposed 40 CFR 131.9(b) specifies that EPA will initiate tribal consultation with the right holders in determining whether State water quality standards protect applicable reserved rights in accordance with 40 CFR 131.9(a)(1) and (2). Finally, proposed 40 CFR 131.9(c) describes the three different ways that WQS can be used where tribal reserved rights apply to ensure protection of those rights.

EPA is also proposing to revise 40 CFR 131.5 (''EPA Authority''). 40 CFR 131.5(a) lists the factors that EPA considers in determining whether state-adopted WQS are consistent with CWA section 303(c). EPA is proposing to add § 131.5(a)(9) specifying that when reviewing new or revised standards, EPA would evaluate whether water quality standards sufficiently protect tribal reserved rights, where applicable, consistent with § 131.9. EPA is proposing conforming revisions to 40 CFR 131.5(b) which would require that this new factor, in addition to the other existing eight factors in 40 CFR 131.5(a), be met for EPA to approve the WQS.

EPA is also proposing to add an element to the list of ''Minimum Requirements for Water Quality Standards Submission'' set forth in 40 CFR 131.6. This proposed addition provides clarity on EPA's expectations regarding how states must document their efforts to ascertain information, in coordination with the right holders, about applicable tribal reserved rights and the level of water quality that fully supports those rights. Specifically, EPA is proposing that where tribal reserved rights apply to WQS being submitted, those submissions would need to include:

1. Information about the scope, nature, and current and past use of the tribal reserved rights, as informed by the right holders; and

2. Data and methods used to develop the WQS.

Finally, EPA is proposing to modify the procedures for state review and revision of WQS at 40 CFR 131.20 to require that the triennial review process include an evaluation of whether there are tribal reserved rights applicable to waters subject to the state's WQS and whether WQS need to be revised to protect those rights.

Pursuant to 40 CFR 131.22(c), EPA would be subject to the same requirements when promulgating Federal WQS. In accordance with CWA section 303(c)(4), there are two scenarios in which EPA would promulgate Federal WQS for the waters of a state. First, CWA section 303(c)(4)(A) establishes that if EPA determines that a state's new or revised WQS is not consistent with the requirements of the Act and the state fails to submit a modified standard within 90 days of that decision, EPA must itself propose and promulgate a revised or new standard for the waters involved (unless prior to promulgation the state has adopted a WQS that EPA determines to be consistent with the Act). Second, CWA section 303(c)(4)(B) grants the EPA Administrator discretion to determine ''that a revised or new standard is necessary to meet the requirements of [the Act].'' Following such a determination, EPA is required to propose and promulgate a revised or new standard except as noted above.

Examples of how these proposed regulatory revisions would be applied and EPA's basis for them are explained in more detail in the next section.

C. How would the proposed regulatory revisions be applied?

The effect of these proposed revisions on the establishment or revision of a state's WQS will be case-specific. EPA anticipates that these proposed revisions would be relevant in states where federally recognized tribes hold reserved rights to aquatic or aquatic-dependent resources in waters where the state, rather than the right holder, establishes applicable WQS.

Whether reserved rights apply to waters subject to a state's new or revised WQS would be informed by several factors, including input from the right holders, other sources of information regarding relevant tribal reserved rights (including information about the geographic scope of those rights), and the available data to inform the level of water quality needed to protect the reserved rights.

1. Determining if Tribal Reserved Rights Apply

Examples of tribal reserved rights as defined in this proposed rulemaking include but are not limited to the rights to fish; gather aquatic plants; and to hunt for aquatic-dependent animals. EPA requests comment on whether there are additional types of tribal reserved rights that it should consider. EPA acknowledges that it may be a complex inquiry to determine if tribal reserved rights apply in waters subject to state WQS, and if so, the nature of those rights and where they apply. For purposes of implementation of this proposed rulemaking, the critical information needed to determine if a reserved right applies to a state's waters includes, but may not be limited to: (1) the nature of the right (*i.e.,* a fishing right, a hunting right, a resource gathering right); (2) where the right applies (*i.e.,* to a specific set of waterbodies or to waters generally within a broad geographic area); and (3) how the right is exercised by the right holders (*e.g.,* for subsistence purposes).[48]

A first step in obtaining this information should be engagement with potential right holders. Accordingly, when WQS are being evaluated or revised, early engagement with federally recognized tribes within the relevant state as well as tribes outside the state that exercise resource rights within that state, can help EPA and states determine if there are reserved rights, the scope of those rights, and whether and how they should be applied in the WQS context. In order to ensure that tribes with reserved rights are engaged in the process of determining whether reserved rights apply, proposed 40 CFR 131.6(g)(1) would require that WQS submissions to EPA include information about tribal reserved rights ''as informed by the right holders,'' where applicable.

In addition to any outreach to or engagement with tribes as part of establishing new or revised WQS, proposed 40 CFR 131.20(a) provides a mechanism for starting the process of such engagement. It would require states to evaluate whether there are applicable tribal reserved rights relevant to waters subject to the state's WQS during the public triennial review process. To help satisfy this requirement, states should explicitly request information regarding the nature and scope of tribal reserved rights in each triennial review, thus providing an opportunity for the right holders to engage and provide information the state can use in its evaluation. Additionally, right holders are encouraged to proactively share information with states and EPA about any tribal reserved rights that may be relevant, including through the triennial review process.

These proposed provisions would provide a role for the right holders in

[48] EPA encourages, to the extent practicable, the consideration and incorporation of any Indigenous Knowledge that is freely provided by right holders. Given the sensitivity of some information about tribal reserved rights, right holders, states and EPA should discuss in advance how the information will be shared and potentially used in the WQS context.

informing both the initial inquiry of whether tribal reserved rights apply and, where reserved rights are applicable, how those reserved rights could be protected through implementation of the requirements of the proposed rulemaking. Specifically, determinations regarding protection of tribal reserved rights should be made through a process of mutual consideration and discussion between right holders, states, and the Federal government.

In addition to seeking input from potential right holders, EPA will also consider other sources of information regarding applicable tribal reserved rights including the language of the treaties, statutes, or Executive orders and relevant judicial precedent.[49]

2. Protecting Applicable Reserved Rights

Proposed 40 CFR 131.9(a) would require states to derive WQS to protect any tribal reserved rights that were determined to be applicable. This would require determining the level of water quality necessary to protect users of the resource and/or the aquatic or aquatic-dependent resource itself, based on available data. This level of water quality is to be determined by applying proposed 40 CFR 131.9(a)(1) and (2), described further below. Once applicable reserved rights to aquatic and/or aquatic-dependent resources have been identified, the proposed regulations provide a mechanism for establishing WQS at a level of water quality that protects those resources and users of those resources, consistent with the CWA.

i. Determining the Level of Water Quality Necessary To Protect the Right

Determining the level of water quality necessary to protect any aquatic or aquatic-dependent resource or users of that resource can be a complex endeavor that involves weighing multiple lines of evidence. However, this endeavor will largely mirror the process states already follow in developing their WQS. Examples of such evidence include fish consumption rate surveys, studies or accounts of heritage fish consumption rates,[50] peer-reviewed articles or reports on the types and levels of pollutants that can adversely affect the resource in question, and monitoring data reflecting historic and/or current water quality. EPA requests comment on the types of historic information that states and EPA should consider.

In some instances, readily available information would be sufficient to identify specific numeric levels of water quality (*e.g.,* numeric criteria) necessary to protect the right. In other instances, such data and information may not be currently available. 40 CFR 131.9(a) acknowledges this by providing that WQS must be consistent with 40 CFR 131.9(a)(1) and (2) ''to the extent supported by available data and information.'' Where data and information are not currently available to support establishing numeric levels of water quality, or where data are inconclusive, states may adopt narrative WQS to protect the right. EPA is available to assist states in gathering more information, in coordination with the right holders, for future use.

In complying with the new regulation, EPA encourages ongoing communication between states and right holders to help states ascertain where reserved rights apply and what data are available to inform the level of water quality necessary to protect those rights. EPA would be available to facilitate dialogue and information-sharing as needed.

Proposed 40 CFR 131.6(g) would require states to submit ''data and methods used'' to develop WQS that protect tribal reserved rights. As with information regarding the tribal reserved rights themselves, information regarding the types and levels of pollutants that may impact those rights should also be informed by engagement with the right holders. EPA recommends that states request information from the right holders such as types of pollutants perceived to be impacting their rights, key aquatic species, and/or consumption rates that would be useful in developing protective WQS, pursuant to proposed 40 CFR 131.20(a). EPA recommends that right holders proactively share any such information with states and EPA. Obtaining these data is another reason that states should work closely with right holders and EPA early in the process of evaluating and revising WQS. As with all WQS actions, states must transparently share information with the public during their process for reviewing and revising WQS (40 CFR 131.20(b)). The data and information gathered and submitted pursuant to proposed 40 CFR 131.6(g) will inform implementation of proposed 40 CFR 131.9.

ii. Accounting for Suppression Effects

Proposed 40 CFR 131.9(a)(1) would require that WQS, to the extent supported by available data and information, be established to protect ''the exercise of the tribal reserved rights unsuppressed by water quality or availability of the aquatic or aquatic-dependent resource.'' This proposed requirement is intended to address situations where existing water quality is lower than necessary to allow for right holders to fully exercise their tribal reserved rights. For example, fish consumption by tribes exercising their treaty-protected right to fish for subsistence may be suppressed due to availability of fish or concerns about the safety of fish for human consumption.[51] Treaty-protected harvesting of wild rice on waterbodies where harvesting historically occurred may likewise be suppressed due to diminished wild rice populations.

This rulemaking does not establish any nationally applicable thresholds for unsuppressed levels or use of a resource. As described in the National Environmental Justice Advisory Committee (NEJAC)'s 2002 report ''Fish Consumption and Environmental Justice,'' the unsuppressed level of a resource for particular right holders will depend on the factors affecting water quality and availability of the resources for that group.[52]

[49] Although, as stated above, legal agreements tribes have entered into solely with states and other non-Federal government entities are not Federal law and therefore not within the scope of this rulemaking, EPA recommends that states use a similar framework to consider tribal rights reserved under state law when developing and revising WQS.

[50] A heritage rate is the amount of fish consumed prior to non-indigenous or modern sources of contamination and interference with the natural lifecycle of fish, in addition to changes in human society. While it is often thought of as a historic rate, it can also be reflective of a current unsuppressed rate. *See:* USEPA. 2016. Guidance for Conducting Fish Consumption Surveys. EPA–823B16002.

[51] As noted by the National Environmental Justice Advisory Council in the 2002 publication *Fish Consumption and Environmental Justice,* ''a suppression effect may arise when fish upon which humans rely are no longer available in historical quantities (and kinds), such that humans are unable to catch and consume as much fish as they had or would. Such depleted fisheries may result from a variety of affronts, including an aquatic environment that is contaminated, altered (due, among other things, to the presence of dams), overdrawn, and/or overfished. Were the fish not depleted, these people would consume fish at more robust baseline levels. . . .In the Pacific Northwest, for example, compromised aquatic ecosystems mean that fish are no longer available for tribal members to take, as they are entitled to do in exercise of their treaty rights.''). National Environmental Justice Advisory Council, *Fish Consumption and Environmental Justice,* p.44, 46 (2002) (NEJAC Fish Consumption Report) available at *https://www.epa.gov/sites/default/files/2015-02/documents/fish-consump-report_1102.pdf.*

[52] *Id,* p.49. Using the term ''baseline'' to refer to the unsuppressed fish consumption rate, the report says the appropriate baseline for determining an unsuppressed level of fish consumption ''will likely differ according to the circumstances surrounding and the group affected by the observed suppression effect . . . . An appropriate baseline [unsuppressed level] might mean examination into what people had consumed as well as aspiration for

The unsuppressed level should balance heritage use of a resource with what is currently reasonably achievable for a particular waterbody. For example, in determining the unsuppressed level of a resource for the purpose of establishing WQS, it may be appropriate to take into consideration both heritage rates of use of that resource and factors that have substantially altered the pollutant burden, hydrology, or availability of the resource, such that use of the resource at heritage rates is not feasible. For example, EPA approved the Spokane Tribe's human health criteria based on a fish consumption rate of 865 g/day. This fish consumption rate maintains the caloric intake characteristic of a traditional subsistence lifestyle while accounting for the lesser quantity and diversity of fish currently available to the Tribe as a result of the construction of the Grand Coulee Dam.[53]

Another example is determining which waters to designate for wild rice protection in the Great Lakes region. To determine the scope of the corresponding designated use, it is appropriate to consider whether waters that do not currently support wild rice uses may do so again in the future. A state might consider historical growing patterns and planned efforts to restore the hydrologic regime and reduce nonpoint sources of pollution, while also accounting for hydrologic changes and legacy contaminants that may not be feasible to remedy at this time.

For the purpose of establishing WQS to fulfill the requirements of this rulemaking, the unsuppressed level or use of a resource should account for situations where restoration efforts are planned or underway (*e.g.,* efforts to improve habitat or reduce contamination), such that it would be reasonable to expect the opportunities for use of the resource to increase in the future. In these situations, where supported by available data and information, EPA is proposing to require that WQS must be set at levels that reflect unsuppressed exercise of the reserved right.

This emphasis on avoiding suppression effects builds on EPA's approach, previously set forth in guidance including EPA's 2000 *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health*[54] (2000 Methodology), 2016 *Guidance for Conducting Fish Consumption Surveys,*[55] and 1985 *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses.*[56] Each of these documents contains information and recommendations that should be considered when synthesizing water quality-related data. However, these documents do not all speak to setting WQS to protect tribal reserved rights for CWA purposes. Accordingly, in its discretion in prescribing WQS regulations that give effect to applicable reserved rights, EPA is proposing at 40 CFR 131.9(a)(1) to require that where tribal reserved rights apply, and where supported by available data and information, WQS must be established to protect ''the exercise of the tribal reserved rights unsuppressed by water quality or availability of the aquatic or aquatic-dependent resource.''[57]

This proposed requirement is consistent with the CWA goal to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters'' (CWA section 101(a)). Indeed, this requirement is necessary to ensure that WQS do not merely reinforce an existing suppressed use that may already limit right holders' ability to exercise their reserved rights, or worse, set in motion a ''downward spiral''[58] of further reduction/suppression. Therefore, where exercise of reserved rights is suppressed, states would need to seek available information about past and present use of the resource, and any information about reasonably anticipated future uses, to help ascertain the level of water quality necessary to fully protect the right.[59] EPA strongly encourages states to coordinate with right holders to gather information about unsuppressed uses and for right holders to proactively share such information with states and EPA. EPA is available to participate in discussions with right holders and states on this issue.

EPA requests comment on whether additional language should be included in the final rule specifying the considerations for determining unsuppressed WQS.

iii. Protecting Right Holders to the Same Risk Level as the General Population

Additionally, proposed 40 CFR 131.9(a)(2) would require that the health of right holders be protected to at least the same risk level as the general population of the state would have been protected, had the general population been the ''target population'' for water quality protections in the waters at issue. EPA anticipates the primary application of this provision to be in using a cancer risk level appropriate for a general population (*i.e.,* at least 10^{-5} along with a fish consumption rate that reflects the reserved right, as discussed above, for the purpose of calculating human health criteria. EPA requests comment on whether there may be other situations where this provision could apply.

Under EPA's 2000 Methodology, a key step in deriving human health criteria is identifying the population subgroup that the criteria should protect. The 2000 Methodology explains that states and authorized tribes could set criteria to protect individuals with ''average'' or ''typical'' exposure, or to protect more highly exposed individuals.[60] EPA's 304(a) criteria use a combination of median values, mean values, and percentile estimates targeted at the high end of the general population (*i.e.,* the target population or the criteria-basis population).[61] The 2000 Methodology also recommends use of conservative exposure parameters to ensure that water quality criteria are protective not

what people would consume were there 'fair access for all to a full range of resources,' or were the conditions fulfilled for full exercise of treaty- and trust-protected rights and purposes.''

[53] U.S. EPA Region 10. *Technical Support Document for Action on the Revised Surface Water Quality Standards of the Spokane Tribe of Indians Submitted April 2010.* December 11, 2013.

[54] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–822–B–00–004. *https://www.epa.gov/wqc/human-health-water-quality-criteria-and-methods-toxics.*

[55] USEPA. 2016. Guidance for Conducting Fish Consumption Surveys. EPA–823B16002.

[56] USEPA. 1985. Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses. U.S. Environmental Protection Agency, Office of Water, Washington, DC PB85–227049.

[57] In its 2019 approval of Idaho's water quality standards, EPA noted that ''[n]othing in the CWA or the EPA's regulations and guidance, including the 2000 Methodology, requires a state to set a FCR based on an estimate of unsuppressed consumption'' and asserted that the concept of requiring a state to use an unsuppressed fish consumption rate should be presented for ''thorough public notice and comment.'' EPA's Approval of Idaho's New and Revised Human Health Water Quality Criteria for Toxics and Other [WQS] Provisions (April 4, 2019), p. 12. In this proposed rule, for the reasons explained herein, EPA is proposing to amend its WQS regulations to require that states use an unsuppressed rate where tribal reserved rights apply and where supported by available data and information. Consistent with its 2019 letter, EPA is requesting public comment on this proposed requirement.

[58] NEJAC Fish Consumption report, at p. 49.

[59] EPA provides guidance on determining unsuppressed fish consumption rates. *See* USEPA. 2016. Guidance for Conducting Fish Consumption Surveys. EPA–823B16002.

[60] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–822–B–00–004. *https://www.epa.gov/wqc/human-health-water-quality-criteria-and-methods-toxics.* p. 2–1.

[61] *Id.*

only of the general population, but also of subpopulations who, because of high exposure, such as high fish intake rates, have an increased risk of receiving a dose that would elicit adverse effects.[62] With respect to carcinogens, the 2000 Methodology states that 10^{-5} and 10^{-6} risk levels may be acceptable for the general population and that highly exposed populations should not exceed a 10^{-4} risk level.[63] [64]

EPA's national guidance has not previously addressed, however, how tribal reserved rights to aquatic and/or aquatic dependent resources should be considered in identifying the target population for deriving water quality criteria. Nor has the agency addressed what constitutes acceptable risk for tribal members whose exercise of reserved rights may put them at greater risk than the general population (*e.g.,* due to higher rates of fish consumption). The agency considered whether it should treat tribal members exercising reserved rights in the same manner as other highly exposed individuals and subpopulations as generally laid out in the 2000 Methodology but has decided protection of tribal members exercising reserved rights warrants a distinct approach. EPA recognizes that treaties, statutes, executive orders, or other sources of law establishing reserved rights vary in many respects and may or may not themselves speak to right holders' exercising their rights relative to a state's general population. Nonetheless, unlike other individuals and subpopulations, tribal members exercising reserved rights are a distinct, identifiable class of individuals holding legal rights to resources, whose reserved rights are unique to them and have a defined geographic scope. In EPA's judgment, their unique status as right holders warrants treating them as the target population for purposes of deriving human health criteria.

The proposed rulemaking does not dictate what cancer risk level must be used in deriving human health water quality criteria for carcinogens where there are applicable reserved rights. Instead, proposed 40 CFR 131.9(a)(2) requires that WQS protect the health of the right holders ''to at least the same risk level as provided to the general population of the state.'' EPA's 2000 Methodology recommends that states and authorized tribes set human health criteria based on a cancer risk level of 10^{-5} or 10^{-6} for the target population which, under the proposed rulemaking, would be tribal members exercising applicable reserved rights. This approach recognizes the special nature of such reserved rights and status of right holders. It also helps ensure protection of tribal members whose exposure (and consequent risk of adverse effects) may vary. For example, if a state or authorized tribe protects the general population at a risk level of 10^{-5}, under the proposed rulemaking they would need to adopt the same risk level for tribes exercising reserved rights. The state or authorized tribe would also select an appropriate fish consumption rate for deriving criteria pursuant to 40 CFR 131.9(a)(1), as discussed above.

In its 2019 decision document reversing its prior disapproval of Washington's human health criteria, EPA made the following assertion: ''[T]he EPA's longstanding view, consistent with the 2000 Methodology, is that a state may consider tribes with reserved fishing rights to be highly exposed populations, rather than the target general population, in order to derive criteria, and that such consideration gives due effect to reserved fishing rights.'' [65] EPA has reconsidered this assertion and is proposing to require that WQS protect the health of right holders to at least the same risk level as a state's general population, rather than treating right holders as a highly exposed population. EPA has determined that it is appropriate, in exercising its discretion in implementing CWA section 303(c), to give effect to reserved rights within the WQS-setting paradigm by requiring that the right holders receive protection to at least the same risk level as recommended for a state's general population and is accordingly proposing the requirement set forth in proposed 40 CFR 131.9(a)(2).

iv. Implementation of These Proposed Requirements

EPA anticipates that the circumstances where WQS may need to be adjusted to protect tribal reserved rights would fall primarily into two categories:

1. Human health criteria to protect fish consumers, where tribes with reserved fishing rights consume more fish and are therefore exposed to greater levels of contaminants in fish. This is because there is a differential health risk between right holders and the general population of the state because right holders are more highly exposed to the resource.

2. Where a reserved right is not already accounted for as a designated or presently attained use for a waterbody, but that waterbody could be reasonably expected to support that right in the future (*e.g.,* if restoration efforts are underway). EPA anticipates that this could arise with uses to protect aquatic life, aquatic-dependent wildlife, and users of those resources, where those uses are not already designated or presently attained.

For many aquatic and aquatic-dependent resources that tribes have rights to fish, hunt or gather, the existing Federal WQS regulations already require states to provide a level of protection consistent with this proposed rulemaking. In accordance with the interim goal specified by CWA section 101(a)(2) of ''water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water,'' the existing Federal WQS regulation requires that state WQS protect fish, shellfish and wildlife, and recreation in and on the water, wherever attainable.[66] As a result, states typically designate most of their waters for those uses. In addition, the existing WQS regulation at 40 CFR 131.11 requires that states adopt water quality criteria that protect their designated uses. As a result, where a tribe has the right to hunt an aquatic-dependent species, for example, the species may already be protected in accordance with this proposed rulemaking by a state's ''wildlife'' designated use and associated criteria, such that this rulemaking would not require any additional protection of that species beyond what is already required under the CWA and EPA's existing WQS regulation.

Additionally, if use of an aquatic or aquatic-dependent resource pursuant to a tribal reserved right is a use that is presently being attained, EPA's existing regulation at 40 CFR 131.10(i) requires states to revise their WQS to reflect the presently attained use. For example, if a tribe has a right to gather an aquatic plant in a state waterbody and that use is presently attained, state WQS should already reflect that as a designated use, per 40 CFR 131.10(i), and thus this resource should be protected in accordance with proposed 40 CFR 131.9(a), discussed further below.

With respect to aquatic life criteria, EPA provides guidance for deriving criteria that generally protect aquatic

[62] *Id.* p.1–11.

[63] *Id.* p.2–6.

[64] Future iterations of this methodology may make different recommendations regarding cancer risk level; the requirement in this proposed rulemaking is not tied to a specific cancer risk level value, but rather requires that states establish WQS that provide the same level of protection between their general populations and right holders.

[65] May 10, 2019 Decision Document. p. 23.

[66] *See* 40 CFR 131.6

organisms,[67] including commercially or recreationally important species. EPA does not anticipate that more stringent criteria to protect aquatic or aquatic-dependent resources themselves would be necessary in most cases to comply with this proposed rulemaking than already required by the existing Federal WQS regulations.

This proposed rulemaking would complement the existing regulatory requirements set forth in EPA's WQS regulation. In certain circumstances, these existing requirements may already be operating to ensure water quality levels are protective of particular tribal reserved rights. By requiring states to seek information regarding applicable reserved rights as they review and revise their WQS, the proposed requirements would equip states with information to determine whether current WQS adequately protect applicable reserved rights.

EPA's identification of two categories of circumstances where compliance with the proposed rulemaking is most likely to necessitate new or revised WQS is consistent with input from tribes during pre-proposal consultation, which focused primarily on protection of fish consumers and protection of wild rice.[68] EPA requests comment on whether there are other instances where WQS may need to be adjusted to protect tribal reserved rights consistent with this proposed rulemaking. This request for comment includes, but is not limited to, whether there are tribal reserved rights to aquatic or aquatic-dependent resources that may require more stringent criteria than otherwise required to protect applicable designated uses in order to comply with this proposed rulemaking and whether there are differential health risks for right holders associated with activities other than fish consumption such that new or revised criteria may be necessary to comply with this proposed rulemaking.

Where information is conflicting, there are gaps in information, and/or a difference of opinion exists between the state and one or more tribes about the level of water quality necessary to protect a reserved right, EPA will take action based on the best available information in the same way that EPA currently makes WQS decisions in these circumstances in other contexts, *e.g.,* determining whether criteria are scientifically defensible in situations where there is conflicting science, there are gaps in the science, and/or there are different conclusions among stakeholders. EPA requests comment on whether there are other factors it should consider when making decisions under these circumstances.

3. Options for Establishing WQS To Protect Tribal Reserved Rights

After determining whether tribal reserved rights apply and the level of water quality necessary to protect those rights, states would be required to revise their WQS if needed to ensure protection of those rights using designated uses, criteria, and/or antidegradation as described at proposed 40 CFR 131.9(c).

The first option is to adopt designated uses that explicitly recognize and identify tribal reserved rights to aquatic and/or aquatic-dependent resources and water quality criteria to protect those uses. For example, a state could adopt a separate designated use of ''customary and traditional fishing'' and apply it to waterbodies where tribes hold reserved rights to fish for subsistence. A state would also determine and adopt protective criteria set at the level of water quality that was determined to protect the customary and traditional fishing designated use. An advantage to establishing designated uses that explicitly recognize specific tribal reserved rights is that it is a transparent way to identify where those rights apply and how they are protected. Designated uses express the desired condition of the water and do not need to be currently attained to be designated.[69] Therefore, it would be appropriate and reasonable to recognize and identify tribal reserved rights as explicit designated uses to define the desired condition for the waters where the rights apply and to then determine and adopt protective criteria to define the minimum conditions necessary to achieve those objectives. As noted above, if use of an aquatic or aquatic-dependent resource pursuant to a tribal reserved right is a use that is presently being attained, EPA's existing regulation at 40 CFR 131.10(i) requires states to revise their WQS to reflect the presently attained use.

As a second option, the state could adopt criteria protective of tribal reserved rights and associate those criteria with a current designated use that already encompasses the tribal reserved rights. For example, a state may have a designated use of ''fishing'' that is intended to capture a broad range of fishing activities. In this case, it may be reasonable for a state to focus on identifying and synthesizing data on fish consumption rates to determine criteria that will protect the ''fishing'' use to an extent consistent with the reserved right, including ensuring that tribes with reserved fishing rights are protected to a level appropriate to protect to the general population as outlined in EPA's 2000 Methodology or EPA's latest guidance for establishing human health criteria.

As a third option, the state could use its antidegradation policy to protect tribal reserved rights. EPA is seeking public comment on whether the following two antidegradation policy options related to Tier 2 and Tier 3 could be used to protect tribal reserved rights in lieu of the options identified in proposed 40 CFR 131.9(c)(1) and (2) and explained earlier in this section. An additional advantage of the antidegradation policy options described in the following paragraph is that in situations where a waterbody's existing water quality exceeds the levels that protect tribal reserved rights, these options would provide a mechanism to maintain high water quality and provide a margin of safety that would afford the water body increased resilience to potential future stressors, including climate change. Protecting such high-quality waters would potentially be more cost-effective and resource-efficient than investing in long-term restoration or remedial actions in the future.

Option 1: States could assign a water body as an Outstanding National Resource Water (ONRW)[70] which would bring it under 40 CFR 131.12(a)(3), which requires the water quality of such ONRWs to be maintained and protected.

Option 2: States could amend their antidegradation policy and/or other legally binding procedures to include a provision that ensures that any lowering of water quality in a high-quality water that is authorized by the state, in accordance with 40 CFR 131.12(a)(2), results in water quality that continues to protect applicable reserved rights.

EPA is requesting comment on these two options for implementing antidegradation requirements to protect tribal reserved rights. EPA is also

[67] USEPA. 1985. *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses.* U.S. Environmental Protection Agency, Office of Water, Washington, DC PB85–227049.

[68] *See* USEPA 2021. *Summary Report of Tribal Consultation for the Proposed Rule: Water Quality Standards Regulatory Revisions to Protect Tribal Reserved Rights,* available in the docket for this proposed rulemaking.

[69] 40 CFR 131.3(f)

[70] Waters provided the highest level of protection under a state's antidegradation policy. *EPA Water Quality Standards Handbook, Chapter 4: Antidegradation.* p.12. EPA–823–B–12–002. *https://www.epa.gov/sites/default/files/2014-10/documents/handbook-chapter4.pdf.*

requesting comment on alternative ways that states could use their antidegradation policies and implementation methods to protect tribal reserved rights, as defined in proposed 40 CFR 131.9(a).

States could also choose to combine these methods, such as by assigning ONRW status to a waterbody to prevent any additional lowering of water quality, while also establishing a tribal resource designated use goal and criteria that must be met to achieve that goal.

If use of an aquatic or aquatic-dependent resource pursuant to a tribal reserved right is an existing use pursuant to 40 CFR 131.3(e),[71] EPA's current WQS regulation at 40 CFR 131.12(a)(1) requires that the use and the water quality necessary to protect that use be maintained and protected. Thus, implementation of 40 CFR 131.12(a)(1) would protect this resource in accordance with proposed 40 CFR 131.9(a).

EPA recognizes that there may be areas where multiple right holders hold reserved rights to the same aquatic and/or aquatic-dependent resources. In these cases, right holders may have different positions on how to ensure the WQS protect the resources, consistent with proposed 40 CFR 131.9. Additionally, tribal reserved rights to a particular resource may span across multiple states. These situations would likely require significant coordination among all parties to develop WQS to protect all applicable rights. EPA is available to facilitate dialogue between and among states and tribes, where appropriate.

4. Use Attainability Analyses and Tribal Reserved Rights

EPA recognizes that there may be situations where a waterbody may not be able to support a reserved right to an aquatic and/or aquatic-dependent resource because attaining that use in that waterbody is not currently feasible. The CWA and EPA's regulations provide that such uses could be revised if shown to be unattainable based on one of six reasons. However, there may also be situations where it may be critical to maintain the designated uses and continue to strive for attainment of such uses to protect a tribal reserved right consistent with the obligations of treaties and other Federal laws. EPA requests comment on whether and how states can revise designated uses, as provided for by 40 CFR 131.10, while also ensuring the protection of tribal reserved rights per proposed 40 CFR 131.9. EPA is not considering modifying the existing requirements in 40 CFR 131.10 or otherwise reopening those requirements for comment but, rather, is requesting comment only on whether any discrete additions to the current regulatory framework may be necessary to protect tribal reserved rights. For example, should EPA include in 40 CFR 131.9 specifics on whether or how a state can revise designated uses and still protect tribal reserved rights?

D. EPA's Role

1. Engagement With States

EPA makes itself available to engage early and often to provide support when states are adopting and revising WQS. EPA support includes providing triennial review ''kick off'' letters that outline EPA's recommendations for WQS revisions, participating in state public processes, and providing comments to states on their proposed WQS. EPA intends to support states by providing input and information on any tribal reserved rights and the level of water quality to protect those rights. As previously mentioned, EPA is also available to facilitate dialogue between states and tribes.

2. Consultation With Tribes

As mentioned in section III.A. of this preamble, any new or revised WQS must be submitted to EPA for review and approval or disapproval to determine whether it meets CWA and corresponding EPA regulatory requirements (CWA section 303(c)(2)(A) and (c)(3); 40 CFR 131.5; 131.21). EPA's policy [72] is to consult on a government-to-government basis with tribes when EPA actions and decisions such as WQS actions may affect tribal interests. Accordingly, in addition to early engagement with right holders in the development of new or revised WQS, EPA will also consult with right holders as it reviews relevant state WQS submissions. EPA intends to codify in proposed 40 CFR 131.9(b) that EPA would initiate consultation with the right holders on state WQS submissions in determining whether applicable reserved rights are protected. This consultation will inform EPA's determination pursuant to 40 CFR 131.5(a)(9) as to whether WQS protect tribal reserved rights, where applicable.

EPA defines consultation in its 2011 *Policy on Consultation and Coordination with Tribes* [73] as ''a process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions that may affect tribes.'' As a process, consultation includes several methods of interaction that may occur at different levels. The appropriate level of interaction is determined by past and current practices, policy adjustments, the continuing dialogue between EPA and tribal governments, and program and regional office consultation procedures and plans.

Under proposed 40 CFR 131.9(b), EPA would seek information and input regarding applicable tribal reserved rights in accordance with the 2011 EPA *Policy on Consultation and Coordination with Tribes,* the 2016 *EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights,*[74] applicable EPA regional consultation procedures,[75] and any other applicable EPA tribal consultation policies in effect when the proposed rulemaking would be applied. Although proposed 40 CFR 131.9(b) would specifically apply to EPA's review of state WQS submissions, EPA intends per its 2011 *Policy on Consultation and Coordination with Tribes,* the 2016 *EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights,*[76] and applicable EPA regional consultation procedures, to initiate consultation with tribes in the geographic area where any WQS decision under EPA's consideration may affect tribal interests, including reserved rights. EPA would consider all relevant

[71] 40 CFR 131.3(e) Existing uses are those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.

[72] USEPA 2011. EPA Policy on Consultation and Coordination with Indian Tribes. (see *https://www.epa.gov/sites/default/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf*)

USEPA 2016. EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights. *https://www.epa.gov/tribal/tribal-treaty-rights;*

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (see *https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments*);

January 26, 2021 Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships (see *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/*).

[73] USEPA 2011. EPA Policy on Consultation and Coordination with Indian Tribes. (see *https://www.epa.gov/sites/default/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf*)

[74] Available online at *https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes-guidance-discussing-tribal-treaty.*

[75] Available online at *https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes.*

[76] Available online at *https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes-guidance-discussing-tribal-treaty.*

information obtained through consultation to help ensure that the agency is fully informed before taking a WQS action.

EPA would attempt to honor consultation requests from tribal governments considering the nature of the activity, past consultation efforts, available resources, timing considerations, and all other relevant factors. EPA would generally agree to consult when such a request for consultation is made by a tribal government, assuming the proposed action may affect that tribe.

E. How would the proposed regulatory revisions apply to States in the Great Lakes system?

During pre-proposal tribal consultation and coordination, some tribes questioned whether 40 CFR part 132, *Water Quality Guidance for the Great Lakes System,* which identifies minimum WQS for the Great Lakes System to protect human health, aquatic life, and wildlife, may limit the ability of states subject to this regulation, once finalized, to revise their WQS to protect tribal reserved rights. 40 CFR part 132 allows for greater levels of protection than specified in the regulation. For example, 40 CFR 132.4(i) provides that, ''[n]othing in this part shall prohibit the Great Lakes States and Tribes from adopting numeric water quality criteria, narrative criteria, or water quality values that are more stringent than'' the criteria and values derived using the methodologies specified in 40 CFR part 132. Therefore, 40 CFR part 132 does not limit the ability of states subject to its requirements to revise their WQS to be more stringent if necessary to protect tribal reserved rights. In addition, for waters in the Great Lakes basin, states must meet the requirements of both 40 CFR parts 131 and 132. Where regulations in 40 CFR parts 131 and 132 overlap, the more stringent regulation applies.

For these reasons, revisions to 40 CFR part 132 are not necessary to protect tribal reserved rights.

F. Role of Other WQS Provisions in Protecting Tribal Reserved Rights

EPA requests comment on whether EPA should specify in 40 CFR 131.9 how other WQS provisions, such as general policies under 40 CFR 131.13, WQS variances under 40 CFR 131.14, and permit compliance schedules under 40 CFR 131.15, should be used to ensure protection of tribal reserved rights. EPA is not proposing to modify the existing language in these sections and is not reopening them for comment. Rather, EPA is considering whether potential discrete additions to the current regulatory scheme set forth in this rule may be necessary. For example, just as the agency has outlined options for designated use revisions, criteria revisions and use of state antidegradation policies, should EPA include in 40 CFR 131.9 specifics on whether or how a state can adopt a WQS variance and still protect tribal reserved rights?

V. Economic Analysis

Pursuant to Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review), EPA has prepared an economic analysis to inform the public of potential costs and benefits of this proposed rulemaking. This analysis is not required by the CWA. EPA's economic analysis is documented in *Economic Analysis for Water Quality Standards Regulatory Revisions to Protect Tribal Reserved Rights (Proposed Rule)* and can be found in the docket for this proposal.

EPA evaluated the potential incremental administrative burdens and costs that may be associated with this proposal, beyond the burden and costs associated with implementation of the current WQS regulation. This proposal would not establish any requirements directly applicable to regulated entities, such as industrial dischargers or municipal wastewater treatment facilities, but could ultimately lead to additional compliance costs to meet permit limits put in place to comply with new WQS adopted by states because of this proposed rulemaking. In general, facilities meet water quality-based limits through pollution prevention programs, product substitution, altered engineering processes, or end-of-pipe treatment. Other aspects of WQS, such as variances which facilitate feasible progress toward a less stringent interim goal, may mitigate compliance costs. However, because of the uncertainty of the specific outcome of application of this proposed rulemaking, both in terms of location and pollutants involved, EPA is unable to provide estimates of costs to those regulated entities. Instead, the focus of EPA's economic analysis is to estimate the potential administrative burden and costs to state governments. EPA does not anticipate this rule would impose any compliance costs on territorial governments because EPA is not aware of any federally recognized tribes with reserved rights in or downstream of any U.S. territory. EPA also does not anticipate costs to authorized tribes [77] because:

- EPA anticipates that few, if any tribes have reserved rights to resources on another tribe's reservation or otherwise under the jurisdiction of another tribe. EPA requests comment on whether any such situations may exist.
- EPA anticipates that if there are tribes with reserved rights to resources under the jurisdiction of a different tribe that is an authorized tribe, their interests may align such that any adopted WQS would reflect protecting such rights in absence of this proposed rulemaking. Should this not be the case, then authorized tribes could be subject to similar administrative costs as presented below for states.

EPA also does not anticipate that this proposed rulemaking would directly impose costs to right holders because it does not impose any requirements on right holders. EPA acknowledges that the proposed requirement to evaluate whether WQS protect relevant tribal reserved rights, as informed by the right holders, may lead to increased information-sharing among states, right-holders, and EPA. However, the proposed rulemaking would not require any additional coordination beyond that which already occurs in connection with WQS public participation processes and EPA's consultations with tribal governments. EPA has, on occasion, provided funding to tribes to develop tribal fish consumption rates that are used to inform the level of water quality necessary to support tribal reserved rights. EPA could support similar projects in the future, as appropriate and as funding allows. While EPA anticipates that states and EPA would bear the majority of the burden for determining the extent of reserved rights and water quality necessary to protect those rights, EPA acknowledges that some tribes may choose to incur costs, such as legal fees or scientific studies to support their position on the scope and nature of their rights and/or water quality necessary to protect them.

EPA assessed the potential incremental burden and costs associated with these proposed regulatory revisions on states by first identifying those elements of the proposed revisions that may impose incremental burdens and costs. Then, EPA estimated the incremental number of labor hours potentially required by states to comply with those elements of the proposed

[77] An ''authorized tribe'' for the purpose of this rulemaking means a tribe authorized for treatment in a manner similar to a state (TAS) under Clean Water Act (CWA) Section 518(e).

regulatory revisions, and then estimated the costs associated with those additional labor hours.

EPA assumed for the purpose of this analysis that all 50 states would each undertake three WQS rulemakings to protect tribal reserved rights. The agency assumed one rulemaking for each of the following purposes:

- To evaluate or revise WQS for protection of human health;
- To evaluate or revise WQS for protection of aquatic life; and
- To account for any other WQS changes needed to protect tribal reserved rights, including addressing the emergence of any information in the future that informs either the applicability of the reserved rights or the necessary level of water quality.

EPA assumed incremental burden and costs for all 50 states, although it is likely that tribal reserved rights to aquatic and/or aquatic-dependent resources do not exist in all 50 states. EPA considered the costs associated with labor from economists, engineers, scientists, and lawyers for development of state regulations. EPA did not include any labor or other costs associated with potential litigation of state regulations as this would not be a direct consequence of this proposed rulemaking and would be highly speculative. Estimates of the incremental administrative burden and costs to state governments associated with this proposal are summarized in the following Table 2:

TABLE 2—SUMMARY OF POTENTIAL ADMINISTRATIVE BURDENS AND COSTS TO STATES ASSOCIATED WITH THE PROPOSED RULE

Rulemaking effort [1]	Burden per State (hours)	Cost per State (2020$) [2]	Number of potentially affected States [3]	Total burden (hours) [4]	Total cost (2020$; one-time) [5]
Rulemaking #1	100–500	$7,465–$37,325	50	5,000–25,000	$373,250–$1,866,250
Rulemaking #2	90–450	6,718–33,592	50	4,500–22,500	335,925–1,679,625
Rulemaking #3	75–375	5,599–27,994	50	3,750–18,750	279,938–1,399,688
Total [7]	265–1,325	19,782–98,911	50	13,250–66,250	989,112–4,945,562

[1] Reflects potential new or increased rulemaking activities to adopt provisions consistent with the proposed rulemaking into WQS.
[2] Hours per state multiplied by average hourly labor rate of $74.65 and rounded to the nearest dollar.
[3] Includes 50 states, but no territories or tribes.
[4] Burden per state multiplied by total number of potentially affected states.
[5] Total burden for all potentially affected states multiplied by average hourly labor rate of $74.65 and rounded to the nearest dollar.

Total one-time costs for this proposal are estimated to range from $989,112 to $4,945,562. EPA chose not to annualize these costs given uncertainty about the period over which that annualization would occur.

In addition to estimating potential burden and costs, EPA also evaluated the potential benefits associated with this proposal. While this rulemaking would not directly lead to improvements in water quality, if finalized, this rulemaking would establish a framework that would encourage future improvements in water quality in geographic areas where tribes hold reserved rights. EPA anticipates that the proposed rulemaking will enhance the ability of states and tribes to protect their water resources by clarifying and prescribing how to protect waters with applicable tribal reserved rights and improving coordination between Federal, state, and tribal governments. Tribal members and the general public may indirectly benefit from this rulemaking through targeted improvements to water quality that are implemented to meet more stringent state WQS adopted in accordance with this rulemaking.

EPA acknowledges that achievement of any benefits associated with cleaner water would involve additional control measures, and thus costs to regulated entities and nonpoint sources, that have not been included in the economic analysis for this proposed rulemaking. EPA has not attempted to quantify either the costs of control measures that might ultimately be required as a result of this rulemaking, or the benefits they would provide. However, better protection of tribal reserved rights has the potential to provide a variety of economic benefits associated with cleaner water.

The primary benefits of the proposed rulemaking for reserved right holders would likely be improved ability to maintain traditions and cultural landscapes and reduced risk to human health. Reducing pollutant levels so that traditional foods such as fish and wild rice are abundant and safe to eat in subsistence quantities allows for unsuppressed levels of tribal subsistence consumption of these resources, which in turn contributes to restoring and maintaining traditional lifeways, preserving indigenous knowledge, and cultural self-determination. The recognition of tribal reserved rights can also lead to direct economic benefits to tribal members. For example, a 1974 court decision allocating 50% of the Columbia River salmon and steelhead catch to the tribes with reserved rights to this resource resulted in a near doubling of revenue for these tribes.[78] This rulemaking seeks to ensure that water quality does not limit right holders' ability to utilize their rights, and therefore achieve the corresponding economic and social benefits.

Other potential benefits include the availability of clean, safe, and affordable drinking water, greater recreational opportunities, water of adequate quality for agricultural and industrial use, and water quality that supports the commercial fishing industry and higher property values. These benefits could accrue to both tribal and nontribal populations.

As mentioned above, this proposal does not establish any requirements directly applicable to regulated point sources or nonpoint sources of pollution, although EPA recognizes that these sources could potentially incur future costs as a result of changes to WQS adopted by states as a result of this rulemaking (states could also adopt new or revised WQS independent of this proposed rulemaking). However, this proposal does not lend itself to identification of readily predictable outcomes regarding changes to state WQS that might result. Likewise, EPA could not predict requirements that could ultimately be imposed on NPDES permittees and nonpoint sources. Thus, EPA has not analyzed potential costs or

[78] Parker, D.P., Rucker, R.R., & Nickerson, P.H. (2016). The Legacy of United States v. Washington: Economic Effects of the Boldt and Rafeedie Decisions. In Unlocking the Wealth of Indian Nations, ed. T.L. Anderson, Rowman and Littlefield Press.

cost savings associated with any consequences of potential revised state WQS.

EPA seeks comment on all aspects of the accompanying economic analysis.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://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 a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is summarized in section V of the preamble and is available in the docket.

B. Paperwork Reduction Act (PRA)

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2700.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements in this proposed rule will be in addition to requirements described in the existing ICR for the Water Quality Standards Regulation and approved by OMB through February 2025.[79] At this time EPA is not proposing to revise the existing ICR to consolidate the requirements of this proposed rule. EPA intends to do so when it requests renewal of the existing ICR in 2025.

EPA would use the information required by this proposed rule to carry out its responsibilities under the CWA to review and approve or disapprove new and revised WQS submitted by states. In reviewing state WQS submissions, EPA considers whether those submissions are consistent with the WQS regulation at 40 CFR part 131. The current regulation requires states to include supporting information to accompany WQS submissions to help EPA determine whether the submitted new and revised WQS are consistent with 40 CFR part 131. This proposed rule would add a new requirement to 40 CFR part 131 to require, where applicable, that state WQS submissions provide additional supporting information about whether the submitted WQS protect tribal reserved rights, including information about the scope, nature, and current and past use of the tribal reserved rights, and data and methods used to develop the WQS. This mandatory information collection would provide EPA with information necessary to review and approve or disapprove standards in accordance with the CWA, 40 CFR part 131, and other Federal laws.

If the information collection activities in this proposed rulemaking are not carried out, states and EPA may not be able to ensure that WQS comply with treaties and other Federal laws. In some cases, this could result in implementation and control steps such as TMDLs and NPDES permits that also do not comply with treaties and other Federal laws.

Respondents/affected entities: states, territories, and tribes authorized for treatment in a manner similar to a state for purposes of establishing WQS under the CWA. While tribal right holders would not be direct respondents, EPA acknowledges that the proposed regulation would require that state submissions be informed by the right holders. EPA believes this would not lead to increased burden on right holders because the proposed rule would not require additional coordination beyond that which already occurs during WQS public participation processes and EPA's consultations with tribal governments. EPA requests comment on this conclusion.

Respondent's obligation to respond: mandatory.

Estimated number of respondents: 50.

Frequency of response: on occasion/as necessary.

Total estimated burden: 13,250–66,250 hours. Burden is defined at 5 CFR 1320.3(b).

Total estimated labor cost: $989,112–$4,945,562 one-time costs (not annualized).

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 OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at *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. OMB must receive comments no later than February 3, 2023. EPA will respond to any ICR-related comments in the final rule.

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 Regulatory Flexibility Act. This action will not impose any requirements on small entities. Small entities are not directly regulated by this rule and this action will not impose any requirements on small entities; rather, this action will impose requirements only on states to take into consideration how their WQS must protect aquatic and aquatic-dependent resources reserved to tribes through treaties, statutes, Executive orders, or other sources of Federal law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate 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

EPA has concluded that 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. This rule would clarify and prescribe how WQS for a state's waters must protect aquatic and aquatic-dependent resources reserved to tribes through treaties, statutes, Executive orders, or other sources of Federal law. States continue to have considerable discretion in adopting and implementing WQS. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132 and consistent with EPA's policy to promote communications between EPA and state and local governments, EPA provided a conceptual overview of the draft rule for the Association of Clean Water Agencies (ACWA)'s Monitoring, Standards and Assessment

[79] ''Information Collection Request for Water Quality Standards Regulation,'' OMB Control Number 2040–0049, EPA ICR Number 0988.15, expiration date February 28, 2025.

Subcommittee, and during three additional one-on-one meetings with individual states held upon request.[80] In these discussions states requested additional clarification about EPA's expectations for how they should determine where tribal reserved rights apply, what resources and tools will be available, *e.g.,* geospatial data, and how to handle situations where data are not available, the state and tribe disagree, or multiple tribes have overlapping rights and do not agree on the level of protection. EPA took these discussions into account during the drafting of this rule. EPA specifically solicits comments on this proposed action from state and local officials.

After publishing this proposed rulemaking, EPA will conduct additional outreach and engagement with state and local government officials, or their representative national organizations, prior to finalizing a rule. All comment letters and recommendations received by EPA during the comment period from state and local governments will be included in the proposed rulemaking docket (Docket ID No. EPA–HQ–OW–2021–0791).

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

This action has tribal implications, however it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. This rulemaking may affect tribes with reserved rights to aquatic and/or aquatic-dependent resources in waters subject to state WQS, and it may also affect tribes administering a CWA 303 WQS program. As of November 15, 2022, 80 Indian tribes have been approved for treatment in a manner similar to a state (TAS) for CWA sections 303 and 401.[81] All or some of these authorized tribes could be subject to this proposed rule, depending on the location and nature of any other tribes' downstream rights.

EPA consulted with tribal officials early in the process of developing this regulation to permit them to have meaningful and timely input into its development. EPA held a 90-day tribal consultation and coordination period from June 15 through September 13, 2021 with federally recognized tribes to inform development of the proposed rule. EPA conducted the consultation and coordination process in accordance with the EPA Policy on Consultation and Coordination with Indian Tribes (*https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes*). In addition to two national tribal listening sessions held in July and August 2021, EPA presented at 20 meetings of tribal staff and leadership, as well as held seven staff-level coordination/engagement meetings and held seven leader-to-leader meetings at the request of tribes. EPA continued outreach and engagement with tribes at national and regional tribal meetings after the end of the consultation period. Nearly all commenters were supportive of the potential rule in concept. EPA considered all pre-proposal tribal input received as it developed the proposed rule.

A summary of that consultation (''*Summary of EPA's Pre-Proposal Consultation, Coordination, and Outreach with Federally Recognized Tribes on Potential Revisions to the Federal Water Quality Standards Regulation to Protect Tribal Reserved Rights*'') is available in the docket for this proposal.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because it does not concern an environmental health risk or safety risk that may disproportionately affect children.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action impacts state and tribal water quality standards, which do not regulate the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act of 1995

This proposed rulemaking does not involve technical standards.

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

For the reasons explained below, EPA concludes 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). Instead, EPA believes that this rule will address some of the many disproportionate impacts to tribal communities.

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.[82] Three Executive Orders (E.O. 12898[83], 13985[84] and 14008[85]) advance EJ by calling on Federal agencies to identify and address disproportionate impacts on historically underserved, marginalized, and economically disadvantaged people. Additionally, EPA has expressed a commitment to conducting EJ analyses for rulemakings as described in the April 30, 2021, revisions to the Cross-State Air Pollution Rule (CSAPR).[86] This rule is

[80] The slides EPA presented at its meeting with ACWA are included in the docket for this rulemaking. These are representative of the slides EPA presented at its one-on-one meetings with states.

[81] For the most current information please refer to *https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts.*

[82] Fair treatment means 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.'' Meaningful involvement occurs when ''(1) potentially affected populations have an appropriate opportunity to participate in decisions about a proposed activity [*e.g.,* rulemaking] that will affect their environment and/or health; (2) the public's contribution can influence [the EPA's rulemaking] decision; (3) the concerns of all participants involved will be considered in the decision-making process; and (4) [the EPA will] seek out and facilitate the involvement of those potentially affected.'' A potential EJ concern is defined as ''the actual or potential lack of fair treatment or meaningful involvement of minority populations, low-income populations, tribes, and tribal peoples in the development, implementation and enforcement of environmental laws, regulations and policies.'' See ''Guidance on Considering Environmental Justice During the Development of an Action.'' Environmental Protection Agency, *www.epa.gov/environmentaljustice/guidanceconsidering-environmental-justice-duringdevelopment-action.* See also *https://www.epa.gov/environmentaljustice.*

[83] Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. Available at *https://www.epa.gov/environmentaljustice/federal-actions-address-environmental-justice-minority-populations-and-low.*

[84] Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. Available at *https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government.*

[85] Tackling the Climate Crisis at Home and Abroad. Available at *https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad.*

[86] 86 FR 23054, 23162 (April 30, 2021) (''Going forward, EPA is committed to conducting environmental justice analysis for rulemakings

consistent with EPA's strategic goal of advancing EJ.[87]

Environmental impacts to tribes may be considered under the category of EJ in recognition that tribes may at times be more susceptible to impacts from environmental degradation. In addition, E.O. 12898 directs Federal agencies, as appropriate and practical, to evaluate and communicate the risks associated with consumption patterns for populations that rely on fish and/or wildlife for subsistence. There is a unique set of EJ considerations for tribes, particularly where tribes are exercising their cultural practices, both on and off their reservations. For EPA, the government-to-government relationship and trust responsibility that the Federal government has with federally recognized tribal governments further sets EJ issues for tribes apart from those in other communities.[88]

EPA and other Federal agencies focus on resolving EJ issues affecting tribes through (1) supporting the tribes' sovereignty and exercise of their own environmental authorities and (2) taking direct action on behalf of the tribes as part of the Federal government's tribal trust responsibility. This proposed rulemaking is relying on a combination of both approaches, as discussed below.

Many tribes rely on aquatic and aquatic-dependent resources for their lifeways. Attaining and sustaining clean water to protect human health is essential to ensuring tribes can continue to practice these traditional lifeways. However, due to water quality issues, many tribes are unable to do so. The contamination of aquatic food resources above levels safe to consume in desired quantities results in what is often described as a suppression effect. An illustration of a suppression effect is when the fish consumption rate for a given tribe reflects a current level of consumption that is artificially diminished relative to the tribe's heritage fish consumption rate.[89] [90] [91]

The negative impacts of suppression extend well beyond tribal health, leading to consequences for tribal economies and cultures as well. Given that aquatic resources often support a tribe's cultural self-determination and can be pivotal to the economic well-being of the community, impacts to these resources can affect the very foundation of tribal social and political organization,[92] as well as impact a tribe's ability to provide for present and future generations and the maintenance of their lifeways.

Tribes have a unique legal and political status, and environmental issues affecting tribes must be viewed in the context of tribal sovereignty. In giving reserved rights an explicit role in CWA regulations, EPA's goal is to support tribal sovereignty. The proposed rulemaking recognizes how critical reserved rights are for many tribes' cultural and economic survival by providing a platform for states and EPA to consider the nature and scope of the very rights that tribes have reserved to themselves and have been enshrined in legal instruments.

Tribes, unlike other communities with EJ concerns, cannot be viewed as subpopulations, differentiated only by exposures and other vulnerabilities. Tribal communities' relationship with their resources is unique and should be understood in terms of both the past and present relationship the particular tribal communities have with these resources and their dependence on those resources. Impacts to tribal communities may be disproportionate by definition because of their unique relationship to the environment.[93] It is often the resource base that provides for their cultural self-determination and can be pivotal to the economic well-being of the community. Indeed, many of the reserved rights expressly include subsistence and economic components.[94] Impacts to their resource base could affect the very foundation of their tribal social and political organization,[95] as well as impact their ability to provide for present and future generations and the maintenance of their lifeways.

This proposed rulemaking's emphasis on treating the applicable tribe or tribes as the target population speaks to this unique status. And the goal of protecting treaty resources that may not be otherwise fully protected under the CWA may indeed have a subsistence and an economic component. Further, the concept of addressing suppression, as described in section IV.C.2.ii. of this preamble, takes on a unique approach where tribal members are concerned by examining not only the current context but may also look at historical and cultural practices to establish the appropriate baseline. Many tribes have continued their traditional practices and/or seek to return to those practices, yet they may have also developed new approaches and relationships to their resource base. Both contexts should be considered in furthering the goal of protecting resources for which tribes have reserved rights.

The role these resources play in tribal communities can be complex. Understanding which resources, how they may be used, and in what quantities, is essential in protecting tribal sovereignty and the cultural and economic survival of tribal communities. And each tribe will likely have a very different set of values and relationships with the resources, which may be different world views from those of the surrounding community, and from state and local governments.[96] Successful implementation of this proposed rulemaking therefore necessitates close coordination with tribes and a greater understanding of the unique approaches that tribes may have toward managing their resources. The foundation of this coordination in this

based on a framework similar to what is outlined here, in addition to investigating ways to further weave environmental justice into the fabric of the rulemaking process including through enhanced meaningful engagement with environmental justice communities.'').

[87] *FY2022–2026 EPA Strategic Plan.* Available online at *https://www.epa.gov/planandbudget/strategicplan.*

[88] EPA recognizes our responsibility to work with both federally recognized tribes and all other indigenous peoples, per the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples (2014) (available online at *https://www.epa.gov/environmentaljustice/epa-policy-environmental-justice-working-federally-recognized-tribes-and*) to address their EJ concerns. As defined in the policy, Indigenous Peoples ''includes state-recognized tribes; indigenous and tribal community-based organizations; individual members of federally recognized tribes, including those living on a different reservation or living outside Indian country; individual members of state-recognized tribes; Native Hawaiians; Native Pacific Islanders; and individual Native Americans.''

[89] National Environmental Justice Advisory Council (NEJAC). 2002. *Fish Consumption and Environmental Justice. https://www.epa.gov/sites/default/files/2015-02/documents/fish-consump-report_1102.pdf.* p. vii.

[90] EPA. 2016. Idaho Tribal Fish Consumption Survey. *https://www.epa.gov/columbiariver/idaho-tribal-fish-consumption-survey.*

[91] Northwest Indian Fisheries Commission, 2019. Opposition to EPA's 2019 Actions to Roll Back Washington's Human Health Water Quality Criteria, Docket No. EPA–HQ–OW–2015–0174. Available online at *https://www.regulations.gov/comment/EPA-HQ-OW-2015-0174-0970.*

[92] Ranco, D.J., O'Neill, C.A., Donatuto, J., & Harper, B.L. 2011. Environmental Justice, American Indians and the Cultural Dilemma: Developing Environmental Management for Tribal Health and Well-being. *Environmental Justice* 4;4, DOI: 10.1089/env.2010.0036.

[93] Suagee, D.B. (2003). Environmental Justice and Indian Country. *Human Rights,* Vol. 30, No. 4, p.16–17.

[94] *Lac Courte Oreilles Band of Lake Superior Chippewa Indians* v. *Wisconsin,* 758 F. Supp. 1262 (W.D. Wisc. 1991).

[95] Ranco, D.J., O'Neill, C.A., Donatuto, J., & Harper, B.L. (2011). Environmental Justice, American Indians and the Cultural Dilemma: Developing Environmental Management for Tribal Health and Well-being. *Environmental Justice* 4;4, DOI: 10.1089/env.2010.0036.

[96] Ranco, D.J., O'Neill, C.A., Donatuto, J., & Harper, B.L. (2011). Environmental Justice, American Indians and the Cultural Dilemma: Developing Environmental Management for Tribal Health and Well-being. *Environmental Justice* 4;4, DOI: 10.1089/env.2010.0036

WQS context necessarily includes the state, with CWA authority to set standards in the reserved rights areas in question, local governments, who often have even more direct contact with tribal members and their governments, tribes holding those rights, and the Federal government. This proposed rulemaking recognizes the importance of coordination with tribes by establishing an express mechanism for tribal input in the state WQS setting process.

Reaching consensus can pose challenges, particularly given the deep-seated sense of stewardship and responsibility tribes often feel toward these resources even when under the jurisdiction of the state. But it is often when tribal resources are not under the jurisdiction of the tribes themselves that tribes see the biggest environmental justice impacts.[97] It is EPA's goal that the sovereignty and management role of both state and tribal governments will be better understood and aligned through implementation of this rulemaking.

EPA recognizes that tribes without federally reserved rights to aquatic or aquatic-dependent resources will not be directly impacted by this rulemaking. The agency also acknowledges that since this rulemaking only covers locations with reserved rights, other aquatic resources upon which tribes depend may not be covered. It is EPA's expectation that many of the coordination and collaboration processes that will be developed to implement this rule will also lead to better protection of aquatic and aquatic-dependent resources not referenced in treaties and similar instruments because this rulemaking aims to facilitate greater coordination between state and tribal governments. EPA will continue to work with states and tribes to help reach this goal. While this rulemaking does not address all obstacles to the full exercise of these rights, EPA believes it takes a positive step in that direction.

List of Subjects in 40 CFR Part 131

Environmental protection, Indians—lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 131 as follows:

[97] *Id*

PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

Subpart A—General Provisions

■ 2. Amend § 131.3 by adding paragraphs (r) and (s) to read as follows:

§ 131.3 Definitions.

* * * * *

(r) *Tribal reserved rights* are any rights to aquatic and/or aquatic-dependent resources reserved or held by tribes, either expressly or implicitly, through treaties, statutes, executive orders, or other sources of Federal law.

(s) *Right holders* are tribes holding rights to aquatic and/or aquatic-dependent resources pursuant to an applicable treaty, statute, executive order, or other source of Federal law.

■ 3. Amend § 131.5 by adding paragraph (a)(9) and revising paragraph (b) to read as follows:

§ 131.5 EPA authority.

(a) * * *

(9) Whether any State adopted water quality standards protect tribal reserved rights, where applicable, consistent with § 131.9.

(b) If EPA determines that the State's or Tribe's water quality standards are consistent with the factors listed in paragraphs (a)(1) through (9) of this section, EPA approves the standards. EPA must disapprove the State's or Tribe's water quality standards and promulgate Federal standards under section 303(c)(4), and for Great Lakes States or Great Lakes Tribes under section 118(c)(2)(C) of the Act, if State or Tribal adopted standards are not consistent with the factors listed in paragraphs (a)(1) through (9) of this section. EPA may also promulgate a new or revised standard when necessary to meet the requirements of the Act.

* * * * *

■ 4. Amend § 131.6 by adding paragraph (g) to read as follows:

§ 131.6 Minimum requirements for water quality standards submission.

* * * * *

(g) Where applicable, information which will aid the agency in evaluating whether the submission protects tribal reserved rights consistent with § 131.9, including:

(1) Information about the scope, nature, and current and past use of the tribal reserved rights, as informed by the right holders; and

(2) Data and methods used to develop the water quality standards.

Subpart B—Establishment of Water Quality Standards

■ 5. Add § 131.9 to subpart B to read as follows:

§ 131.9 Protection of tribal reserved rights.

(a) Water quality standards must protect tribal reserved rights applicable to waters subject to such standards. To protect tribal reserved rights, water quality standards must, to the extent supported by available data and information, be established to protect:

(1) The exercise of tribal reserved rights unsuppressed by water quality or availability of the aquatic or aquatic-dependent resource; and

(2) The health of the right holders to at least the same risk level as provided to the general population of the State.

(b) In reviewing State water quality standards submissions under this section, EPA will initiate tribal consultation with the right holders, consistent with applicable EPA tribal consultation policies, in determining whether State water quality standards protect applicable tribal reserved rights in accordance with paragraph (a) of this section.

(c) In order to meet the requirements in paragraph (a) of this section, States must:

(1) Designate uses consistent with § 131.10 that either expressly incorporate protection of the tribal reserved rights or encompass such rights; and

(2) Establish water quality criteria consistent with § 131.11 to protect tribal reserved rights; and/or

(3) Use applicable antidegradation requirements consistent with § 131.12 to maintain and protect water quality that protects tribal reserved rights.

Subpart C—Procedures for Review and Revision of Water Quality Standards

■ 6.Amend § 131.20 by revising paragraph (a) to read as follows:

§ 131.20 State review and revision of water quality standards.

(a) *State review.* The State shall from time to time, but at least once every 3 years, hold public hearings for the purpose of reviewing applicable water quality standards adopted pursuant to §§ 131.10 through 131.15 and Federally promulgated water quality standards and, as appropriate, modifying and adopting standards. This review shall include evaluating whether there are tribal reserved rights applicable to State waters and whether water quality standards need to be revised to protect those rights pursuant to § 131.9. The State shall also re-examine any

waterbody segment with water quality standards that do not include the uses specified in section 101(a)(2) of the Act every 3 years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly. Procedures States establish for identifying and reviewing water bodies for review should be incorporated into their Continuing Planning Process. In addition, if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional Administrator consistent with CWA section 303(c)(1) and the requirements of paragraph (c) of this section.

* * * * *

[FR Doc. 2022–26240 Filed 12–2–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–TRI–2022–0270; FRL–8741–03–OCSPP]

RIN 2070–AK97

Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances and to Supplier Notifications for Chemicals of Special Concern; Community Right-to-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to add per- and polyfluoroalkyl substances (PFAS) subject to reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA) pursuant to the National Defense Authorization Act for Fiscal Year 2020 (NDAA) to the list of Lower Thresholds for Chemicals of Special Concern (chemicals of special concern). These PFAS already have a lower reporting threshold of 100 pounds. The addition of these PFAS to the list of chemicals of special concern will cause such PFAS to be subject to the same reporting requirements as other chemicals of special concern (*i.e.,* it would eliminate the use of the *de minimis* exemption and the option to use Form A and would limit the use of range reporting for PFAS). Removing the availability of these burden-reduction reporting options will result in a more complete picture of the releases and waste management quantities for these PFAS. In addition, EPA is proposing to remove the availability of the *de minimis* exemption for purposes of the Supplier Notification Requirements for all chemicals on the list of chemicals of special concern. This change will help ensure that purchasers of mixtures and trade name products containing such chemicals are informed of their presence in mixtures and products they purchase.

DATES: Comments must be received on or before February 3, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–TRI–2022–0270, using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or 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:* Daniel R. Ruedy, Data Gathering and Analysis Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–7974; email: *ruedy.daniel@epa.gov.*

For general information contact: The Emergency Planning and Community Right-to-Know Hotline; telephone numbers: toll free at (800) 424–9346 (select menu option 3) or (703) 348–5070 in the Washington, DC Area and International; or go to *https://www.epa.gov/home/epa-hotlines.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or otherwise use listed PFAS or any chemicals listed under 40 CFR 372.28. The following list of North American Industry Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this action applies to them. Potentially affected entities may include:

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211130*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512230*, 512250*, 519130*, 541713*, 541715* or 811490*. *Exceptions and/or limitations exist for these NAICS codes.
- Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 211130 (corresponds to SIC code SIC 1321, Natural Gas Liquids and SIC 2819, Industrial Inorganic Chemicals, Not Elsewhere Classified); or 212111, 212112, 212113 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212230, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems).
- Federal facilities.

A more detailed description of the types of facilities covered by the NAICS codes subject to reporting under EPCRA section 313 can be found at: *https://www.epa.gov/toxics-release-inventory-tri-program/tri-covered-industry-sectors.* To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372, subpart B of title 40 of the Code of Federal Regulations. Federal facilities are required to report under Executive Order 14008 (*https://www.govinfo.gov/content/pkg/FR-2021-02-01/pdf/2021-02177.pdf*), as explained in the Council on Environmental Quality's 2021 memorandum to Chief Sustainability

Officers (*http://www.epa.gov/sites/default/files/2021-04/documents/final_ceq_memo_on_tri_april_2021.pdf*). If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What action is the Agency taking?

EPA is proposing to add all PFAS included on the Toxics Release Inventory (TRI) pursuant to sections 7321(b) and 7321(c) of the 2020 NDAA to the list of chemicals of special concern (40 CFR 372.28). (EPA maintains a list of PFAS added to the TRI list pursuant to the NDAA: *https://www.epa.gov/toxics-release-inventory-tri-program/list-pfas-added-tri-ndaa*.) The addition of these PFAS to the list of chemicals of special concern will align reporting requirements for these PFAS with other chemicals of special concern. This will likely result in additional Form R reports being filed for these PFAS due to the removal of the availability of the *de minimis* exemption and the option to use Form A. It will also limit the use of range reporting, which will capture more specific information for PFAS added pursuant to sections 7321(b) and 7321(c) of the NDAA.

In addition, EPA is proposing to remove the availability of the *de minimis* exemption under the Supplier Notification Requirements (40 CFR 372.45) for facilities that manufacture or process any chemicals included on the list of chemicals of special concern.

C. What is the Agency's authority for this action?

This action is issued under EPCRA sections 313, 42 U.S.C. 11023 and 328, 42 U.S.C. 11048. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986.

D. Why is the Agency taking this action?

EPA is taking this action to increase the data collected for PFAS. Removing the availability of certain burden-reduction reporting options will result in a more complete picture of the releases and waste management quantities for PFAS. This proposed change would increase the number of TRI reports on listed PFAS and the amount of information provided on such reports, resulting in more information on the waste management of these chemicals available to the Agency, as well as to the public. In addition, this action will increase data collected for all chemicals of special concern by eliminating the *de minimis* exemption for purposes of the Supplier Notification Requirements for all chemicals on the list of chemicals of special concern. The elimination of this exemption from Supplier Notification Requirements will ensure that purchasers of mixtures and trade name products containing such chemicals are informed of their presence in mixtures and products they purchase.

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

EPA prepared an economic analysis for this action entitled, ''Economic Analysis for the Proposed Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances and to Supplier Notifications Requirements for Chemicals of Special Concern; Community Right-to-Know Toxic Chemical Release Reporting,'' which presents an analysis of the costs of the proposed reporting changes for PFAS and other chemicals of special concern (Ref. 1). EPA estimates that this action would result in an additional 605 to 1,997 Form R reports being filed annually. EPA estimates that the costs of this action will be approximately $3,064,271 and $10,114,734 in the first year of reporting and approximately $1,459,215 and $4,816,518 in the subsequent years. In addition, EPA has determined that, of the 467 to 1,313 small businesses affected by this action, none are estimated to incur annualized cost impacts of more than 1% of revenues. Thus, this action is not expected to have a significant adverse economic impact on a substantial number of small entities.

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

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

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

II. Background Information

A. What is EPCRA section 313?

EPCRA section 313, 42 U.S.C. 11023 (also known as the Toxics Release Inventory (TRI)), requires certain facilities that manufacture, process, or otherwise use listed toxic chemicals in amounts above reporting threshold levels to report their environmental releases and other waste management quantities of such chemicals annually. These facilities must also report pollution prevention and recycling data for such chemicals, pursuant to PPA section 6607, 42 U.S.C. 13106. Note that TRI does not cover all chemicals, facilities, or types of pollution (see *https://www.epa.gov/toxics-release-inventory-tri-program/what-toxics-release-inventory* for information on which chemicals and facilities are regulated under TRI).

TRI provides information about releases of toxic chemicals from covered facilities throughout the United States; however, TRI data do not reveal whether or to what degree the public is exposed to listed chemicals. TRI data can, in conjunction with other information, be used as a starting point in evaluating such exposures and the risks posed by such exposures. The determination of potential risk to human health and/or the environment depends upon many factors, including the toxicity of the chemical, the fate of the chemical in the environment, and the amount and duration of human or other exposure to the chemical.

For more information on TRI, visit the TRI website at *www.epa.gov/tri.* Additionally, via this website, EPA provides a *Factors to Consider When Using Toxics Release Inventory Data* document (*https://www.epa.gov/system/files/documents/2022-02/factorstoconsider_approved-by-opa_1.25.22-copy.pdf*), which helps explain some of the uses, as well as limitations, of data TRI collects.

B. What are PFAS?

PFAS are synthetic organic compounds that do not occur naturally in the environment. PFAS contain an alkyl carbon chain on which the hydrogen atoms have been partially or completely replaced by fluorine atoms. In general, the strong carbon-fluorine bonds of PFAS make them resistant to degradation and thus highly persistent in the environment (Refs. 2 and 3). Some of these chemicals have been used for decades in a wide variety of consumer and industrial products (Refs.

2 and 3). Some PFAS have been detected in wildlife indicating that at least some PFAS have the ability to bioaccumulate (Ref. 3). Because of the widespread use of PFAS in commerce and their tendency to persist in the environment, most people in the United States have been exposed to PFAS (Refs. 2, 4 and 5). Some PFAS can accumulate in humans and remain in the human body for long periods of time (*e.g.,* months to years) (Refs. 2 and 3), as a result, several PFAS have been detected in human blood serum (Refs. 2, 3, 4, and 5).

C. What PFAS have been added to the TRI list?

On December 20, 2019, the NDAA was signed into law (Pub. L. 116–92, *https://www.congress.gov/public-laws/116th-congress*). The NDAA included two provisions that automatically add PFAS to the TRI list. First, section 7321(b) of the NDAA added to the TRI list, effective January 1, 2020, 14 chemicals by name and/or Chemical Abstracts Service Registry Number (CASRN) and additional PFAS that meet specific criteria. On June 22, 2020 (85 FR 37354) (FRL–10008–09), EPA updated the TRI list in the CFR to reflect the 172 non-CBI PFAS added to TRI by section 7321(b).

Additional PFAS are added to the TRI list on an annual basis by the NDAA. Specifically, PFAS that meet the criteria in section 7321(c) of the NDAA are deemed added to the TRI list on January 1 of the year after specific criteria are met. Through this provision, the NDAA will continue to add PFAS to the TRI list over time as additional PFAS meet the criteria outlined in 7321(c). The criteria of section 7321(c) require the addition to the TRI list of certain PFAS after any one of the following dates:

- Final Toxicity Value. The date on which the Administrator finalizes a toxicity value for the PFAS or class of PFAS;
- Significant New Use Rule. The date on which the Administrator makes a covered determination for the PFAS or class of PFAS;
- Addition to Existing Significant New Use Rule. The date on which the PFAS or class of PFAS is added to a list of substances covered by a covered determination;
- Addition as an Active Chemical Substance. The date on which the PFAS or class of PFAS to which a covered determination applies is:

—Added to the list published under section 8(b)(1) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*) and designated as an active chemical substance under TSCA section 8(b)(5)(A); or

—Designated as an active chemical substance under TSCA section 8(b)(5)(B) on the list published under TSCA section 8(b)(1).

EPA updates the TRI list in the CFR to reflect the PFAS added to TRI by section 7321(c) of the NDAA. The first update rule identifying PFAS that met the 7321(c) criteria during 2020 was published on June 3, 2021 (86 FR 29698) (FRL–10022–25).

To date, section 7321 of the NDAA has added a total of 180 PFAS to the TRI list (*https://www.epa.gov/tri/PFAS*). A complete list of the PFAS added to the TRI list can be found at: *https://www.epa.gov/toxics-release-inventory-tri-program/list-pfas-added-tri-ndaa.* In addition, the NDAA established a manufacture, processing, or otherwise use reporting threshold of 100 pounds for each of the PFAS added to the TRI list by sections 7321(b) and 7321(c) of the NDAA. In the first year of reporting for the initial 172 listed PFAS, EPA only received 89 reports from 38 facilities covering 43 different PFAS.

III. What changes is EPA proposing to make to the TRI reporting requirements?

A. Designating PFAS Automatically Added to the TRI List by the 2020 NDAA as Chemicals of Special Concern

EPA is proposing to add all PFAS included on the TRI list pursuant to sections 7321(b) and 7321(c) of the NDAA (see 40 CFR 372.65(d) and (e)) to the list of chemicals of special concern at 40 CFR 372.28. EPA first created the list of chemicals of special concern to increase the utility of TRI data by ensuring that the data collected and shared through TRI are relevant and topical (64 FR 58666, 58668 October 29, 1999 (FRL–6389–11)). EPA lowered the reporting thresholds for chemicals of special concern because even small quantities of releases of these chemicals can be of concern. The first chemicals that were added to the list of chemicals of special concern were those identified as persistent, bioaccumulative and toxic (PBT) chemicals which, except for the dioxin and dioxin-like compounds category, have reporting thresholds of either 10 or 100 pounds depending on their persistent and bioaccumulative properties (64 FR 58666, October 29, 1999 (FRL–6389–11)). Chemicals of special concern are also excluded from the *de minimis* exemption, may not be reported on Form A (Alternate Threshold Certification Statement), and have limits on the use of range reporting.

The *de minimis* exemption allows facilities to disregard small concentrations of TRI chemicals not classified as chemicals of special concern in mixtures or other trade name products when making threshold determinations and release and other waste management calculations. The *de minimis* exemption does not apply to the manufacture of a TRI chemical except if that chemical is manufactured as an impurity and remains in the product distributed in commerce, or if the chemical is imported below the appropriate *de minimis* level. The *de minimis* exemption does not apply to a byproduct manufactured coincidentally as a result of manufacturing, processing, otherwise use, or any waste management activities.

The Form A provides facilities that otherwise meet TRI-reporting thresholds the option of certifying on a simplified reporting form provided that they do not exceed 500 pounds for the total annual reportable amount (subsequently in this document) for that chemical, and that their amounts manufactured, processed, or otherwise used do not exceed 1 million pounds. All chemicals of special concern (except certain instances of reporting lead in stainless steel, brass, or bronze alloys) are excluded from Form A eligibility. Form A does not include any information on releases or other waste management. Nor does it include source reduction information or any other chemical-specific information other than the identity of the chemical.

For certain data elements (Part II, Sections 5, 6.1, and 6.2 of Form R), for chemicals not classified as chemicals of special concern, the reportable quantity may be reported either as an estimate or by using the range codes that have been developed. Currently, TRI reporting provides three reporting ranges: 1–10 pounds, 11–499 pounds, and 500–999 pounds.

The availability of these burden reduction tools is inconsistent with a concern for small quantities of the chemicals and the expanded reporting that was sought for chemicals with lower reporting thresholds. In the preamble to the 1999 rule, EPA outlined the reasons for promulgating the *de minimis* exemption (*e.g.,* that facilities had limited access to information and that low concentrations would not contribute to the activity threshold) and determined that those rationales did not apply to chemicals of special concern. *Id.* at 58670. Among the reasons provided, EPA explained that even minimal releases of persistent bioaccumulative chemicals may result in significant adverse effects and can reasonably be expected to significantly

contribute to exceeding the proposed lower threshold. *Id.* EPA also determined that facilities reporting on chemicals of special concern could not avail themselves of Form A reporting because the information provided on Form As is ''insufficient for conducting analyses'' on chemicals of special concern and would be ''virtually useless for communities interested in assessing risk from releases and other waste management'' of such chemicals (*i.e.,* the Form A does not include estimated release and other waste management quantities). *Id.* Lastly, EPA eliminated range reporting for chemicals of special concern because the use of ranges could misrepresent data accuracy for PBT chemicals because the low or the high-end range numbers may not really be that close to the estimated value. *Id.* For the full discussion, see *Persistent Bioaccumulative Toxic (PBT) Chemicals; Lowering of Reporting Thresholds for Certain PBT Chemicals; Addition of Certain PBT Chemicals; Community Right-to-Know Toxic Chemical Reporting* (Proposed rule January 5, 1999, 64 FR 688 (FRL–6032–3) and Final rule October 29, 1999, 64 FR 58666, (FRL–6389–11)).

EPA is proposing to determine that PFAS added to EPCRA section 313 by sections 7321(b) and 7321(c) of the NDAA should be categorized as chemicals of special concern and added to the list in 40 CFR 372.28. The NDAA set a 100-pound reporting threshold for PFAS added by sections 7321(b) and 7321(c), which indicates a concern for small quantities of such PFAS. EPA is therefore proposing to determine that the availability of certain burden reduction tools (*i.e., de minimis* levels, Form A, and range reporting) are not justified for these chemicals as the availability of these tools is inconsistent with a concern for small quantities.

Further, due to the strength of the carbon-fluorine bonds, many PFAS can be very persistent in the environment (Refs. 2, 3, and 6). Persistence in the environment allows PFAS concentrations to build up over time; thus, even small releases can be of concern. As with PBT chemicals, permitting reporting facilities to continue to rely on the burden reduction tools (*de minimis* levels, Form A, and range reporting) would eliminate reporting on potentially significant quantities of the listed PFAS. As explained in more detail below, EPA's rationale for eliminating these burden reduction tools for PBT chemicals (January 5, 1999, 64 FR 714–716) applies equally well to PFAS.

The *de minimis* exemption allows facilities to disregard concentrations of TRI listed chemicals below 1% (0.1% for carcinogens) in mixtures or other trade name products they import, process, or otherwise use in making threshold calculations and release and other waste management determinations. Since the *de minimis* level is based on relative concentration rather than a specific amount, the application of this exemption to PFAS listed under sections 7321(b) and 7321(c) could allow significant quantities of such PFAS to be excluded from TRI reporting by facilities. For example, if a facility imports, processes, or otherwise uses 100,000 pounds of a mixture or trade name product that contains 0.5% of a listed PFAS, then 500 pounds (or five times the reporting threshold) would be disregarded. This exclusion is inconsistent with a concern for small quantities of PFAS. Many PFAS are used in products below the established *de minimis* levels (Refs. 4 and 7), and the continued availability of the exemption for PFAS would permit facilities to discount those uses when determining whether an applicable threshold has been met to trigger reporting.

The Form A provides certain covered facilities the option of submitting a substantially shorter form with a reduced reporting burden (Ref. 8). For example, the Form A does not require facilities to report any information on releases (*e.g.,* releases through fugitive or non-point air emissions, discharges to streams or water bodies) or waste management quantities. Facilities can qualify to file a Form A if the total annual reportable amount for the listed chemical does not exceed 500 pounds, and the amounts manufactured, processed, or otherwise used do not exceed 1 million pounds. The reportable amounts include amounts released at the facility (including disposed of within the facility), treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycling operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycling, energy recovery, treatment, and/or disposal. This means that facilities that are required to report data on PFAS and also qualify to file a Form A will not be providing specific quantity data on up to 500 pounds of a listed PFAS (five times the reporting threshold). For reporting year 2020, approximately 10% of the reporting forms submitted for the listed PFAS were Form As (*i.e.,* reporting for TRI reflects 93 active reporting forms of which 84 were Form Rs and 9 were Form As).

While the Form A does provide some general information on the quantities of the chemical that the facility manages as waste, this information may be insufficient for conducting analyses on PFAS and may be less meaningful for communities interested in assessing risk from releases of PFAS. The threshold category for amounts managed as waste does not include quantities released to the environment as a result of remedial actions or catastrophic events not associated with production processes (section 8.8 of Form R). Thus, the waste threshold category in Form A does not include all releases. Given that even small quantities of PFAS may result in elevated concentrations in the environment, EPA believes it would be inappropriate to allow a reporting option that would exclude information on some releases. Thus, removing the availability of the use of Form A for PFAS is consistent with a concern for understanding small quantities of PFAS.

For TRI-listed chemicals, other than chemicals of special concern, releases and off-site transfers for further waste management of less than 1,000 pounds can be reported using ranges or as a whole number. The reporting ranges are: 1–10 pounds; 11–499 pounds; and 500–999 pounds. For larger releases and offsite transfers for further waste management of the toxic chemical, the facility must report the whole number. Use of ranges could reduce data accuracy because the low or the high-end range numbers may not be that close to the estimated value, even taking into account inherent data errors (*i.e.,* errors in measurements and developing estimates). For PFAS, it is important to have accurate data regarding the amount released even when the quantities are relatively small, since concern may be tied to even small quantities of a substance. This issue was apparent for PFAS for reporting year 2020 since much of the data reported was for less than 1,000 pounds.

EPA anticipates that the elimination of these burden reduction tools will increase the amount and quality of data collected for PFAS and is consistent with the concern for small quantities of PFAS (Ref. 1).

B. Elimination of the Supplier Notification Requirement De Minimis Exemption for Chemicals of Special Concern

EPA is also proposing to eliminate the use of the *de minimis* exemption under the Supplier Notification Requirements at 40 CFR 372.45(d)(1) for all substances on the list of chemicals of special

concern. EPA extended the *de minimis* exemption to the supplier notification requirement in its initial TRI reporting rule (February 16, 1988, 53 FR 4500) (FRL–3298–2). The revised text would read as follows:

> If a mixture or trade name product contains no toxic chemical in excess of the applicable *de minimis* concentration as specified in 40 CFR 372.38(a) except for chemicals listed under 40 CFR 372.28 which are excluded from the *de minimis* exemption.

The *de minimis* exemption to the Supplier Notification Requirements allows suppliers to not provide notifications for mixtures or trade name products containing the listed toxic chemicals if the chemicals are present at concentrations below 1% of the mixture (0.1% for carcinogens). The *de minimis* exemption is not a small quantity exemption, it is a small concentration exemption. Therefore, it is possible that significant quantities of chemicals of special concern can be overlooked by reporting facilities if suppliers can use the *de minimis* exemption. For example, if a mixture or trade name product contains 0.9% of a listed PFAS and 100,000 pounds of the product is purchased, the supplier need not provide notification and the purchaser could be unaware of and not account for 900 pounds of PFAS. The impact of this exemption for the PBT chemicals with 10-pound reporting thresholds is even greater. Using the same 100,000-pound example, if mercury were present at 0.9% then that same 900 pounds would be 90 times the mercury reporting threshold.

It is also possible that quantities of chemicals of special concern would be included in supplier notifications by reporting facilities if suppliers cannot use the *de minimis* exemption. For example, if a mixture or trade name product contains 0.9% of a listed PFAS and 1,000 pounds of the product is purchased, the supplier would need to provide notification for 9 pounds of PFAS. This would also impact PBT chemicals with 10-pound reporting thresholds. Using the same 1,000-pound example, if mercury was present at 0.9% then that same 9 pounds would be below the mercury reporting threshold. However, such quantities may become reportable, in aggregate, if a reporting entity receives multiple shipments (including from multiple suppliers) of a given product in a year and performs a threshold activity in excess of the TRI reporting threshold. Further, TRI supplier notification regulations do not require a person to consider the total quantity of the chemical being supplied but rather require the person to consider the concentration of the chemical in the product or mixture. Including a consideration of quantity rather than concentration shipped would complicate as well as reduce the ability of supplier notifications to inform downstream recipients of products and mixtures containing a TRI-listed chemical.

EPA considered whether to include a small quantity exemption in lieu of a *de minimis* exemption for supplier notification. However, EPA is concerned that such an exemption would not provide adequate information to facilities receiving multiple shipments over the course of a year to address TRI reporting requirements that may apply to them, based on the total aggregated quantity received. Without such information on the TRI-listed chemical, the receiving facility may not have sufficient data to inform potential TRI reporting obligations.

Many PFAS are used in products below the established *de minimis* levels (Refs. 4 and 7) which results in users of those products not knowing they are receiving a product that contains a TRI reportable PFAS. PFAS reports received for the TRI 2020 reporting year were mostly from manufacturers and waste disposal facilities which suggests that the *de minimis* exemption may have been used by most users and processors (*https://www.epa.gov/toxics-release-inventory-tri-program/find-understand-and-use-tri*). EPA has concluded that it is important and necessary to eliminate the supplier notification *de minimis* exemption for PFAS added to the TRI list pursuant to sections 7321(b) and 7321(c) of the NDAA because if that exemption were to remain in place the Agency may fail to collect information on amounts of PFAS that significantly exceed the reporting threshold.

In addition, eliminating the use of the *de minimis* exemption for supplier notification purposes for all other chemicals of special concern will ensure that potentially significant quantities of such chemicals do not get overlooked by reporting facilities. The PBT chemicals and chemical categories that are classified as chemicals of special concern, and thus would also be impacted by this change, are as follows:

- Aldrin (CASRN: 309–00–2);
- Benzo[g,h,i]perylene (CASRN: 191–24–2);
- Chlordane (CASRN: 57–74–9);
- Dioxin and dioxin-like compounds category (manufacturing; and the processing or otherwise use of dioxin and dioxin-like compounds category if the dioxin and dioxin-like compounds are present as contaminants in a chemical and if they were created during the manufacturing of that chemical) (TRI Category Code: N150);
- Heptachlor (CASRN: 76–44–8);
- Hexabromocyclododecane category (TRI Category Code: N270);
- Hexachlorobenzene (CASRN: 118–74–1);
- Isodrin (CASRN: 465–73–6);
- Lead (this lower threshold does not apply to lead when it is contained in stainless steel, brass or bronze alloy) (CASRN: 7439–92–1);
- Lead compounds category (TRI Category Code: N420);
- Mercury (CASRN: 7439–97–6);
- Mercury compounds category (TRI Category Code: N458);
- Methoxychlor (CASRN: 72–43–5);
- Octachlorostyrene (CASRN: 29082–74–4);
- Pendimethalin (CASRN: 40487–42–1);
- Pentachlorobenzene (CASRN: 608–93–5);
- Polychlorinated biphenyls (CASRN: 1336–36–3);
- Polycyclic aromatic compounds category (PACs) (TRI Category Code: N590);
- Tetrabromobisphenol A (CASRN: 79–94–7);
- Toxaphene (CASRN: 8001–35–2); and
- Trifluralin (CASRN: 1582–09–8).

When EPA established the chemical of special concern list, it decided to not remove the *de minimis* exemption eligibility from supplier notification requirements, indicating that the Agency believed that there was sufficient information available on PBT chemicals by suppliers. See 64 FR 688 (at 715), January 5, 1999 (FRL–6032–3) and 64 FR 58666 (at 58732), October 29, 1999 (FRL–6389–11). However, EPA has determined that there are situations where this information is not available. For example, the agency has found that there is significant variability in the concentration of PACs in fuels, yet the presence and concentration of PACs in fuel oil is often not provided in supplier notifications or SDSs. Additionally, EPA is aware of metal mixtures and products containing low concentrations of lead (not contained in stainless steel, brass or bronze alloys) whose supplier notifications and SDSs do not state there is lead present in the mixture or product. Further, it is unclear whether downstream purchasers would be made aware of PBT chemicals contained in many products without notification of the presence of such chemicals.

In situations where such information is already available, supplier notifications may already be addressed (*e.g.,* if such information in already included on an SDS) or the anticipated

burden of a supplier to provide such information would be minimal (*i.e.,* if the information is redundant then the burden to provide such known information should be trivial). However, as noted above, the quantity information EPA proposes to require for *de minimis* concentrations below the concentration threshold may not be provided in SDSs. OSHA maintains a 1 percent concentration threshold for reporting the presence and concentration of most hazardous chemicals on SDSs. (29 CFR part 1910, subpart Z.) For chronic hazards (with Carcinogenicity, Germ Cell Mutagenicity, and Reproductive Toxicity), OSHA has established a 0.1 percent concentration threshold for reporting the presence and concentration of chemicals on SDSs (29 CFR part 1910, subpart Z.) EPA notes that there may be other reasons for a chemical's exclusion from an SDS, including that a chemical's hazard may not be covered by OSHA, or a chemical may be in an article that is not covered by SDS requirements. EPA believes that any potential increase in new supplier reporting is minimal, particularly regarding non-PFAS chemicals of special concern, but seeks comments on whether new supplier notifications will need to be developed under this proposal, and on any associated impacts.

In the 1999 proposal to establish a chemical of special concern list, EPA also reasoned that entities subject to TRI supplier notification requirements could retain use of the *de minimis* exemption for PBTs because ''[m]any of the chemicals identified as persistent and bioaccumulative in today's action are not imported, processed, or otherwise used but are manufactured as byproducts.'' (64 FR 715; January 5, 1999). However, the Agency has since learned that several PBT chemicals are not manufactured as byproducts, and those chemicals are known to be processed for distribution to customers. For example, in Reporting Year 2021, the Agency received 55 Form Rs for tetrabromobisphenol A (TBBPA). None of those forms indicated that TBBPA had been manufactured as a byproduct. However, some forms indicated the TBBPA is processed, including as an article component. Similarly, for Reporting Year 2021, the Agency received 76 Form Rs on polychlorinated biphenyls (PCBs); 64 of those forms did not indicate those PCBs had been manufactured as byproducts, though some forms indicated the PCBs had been processed, including as an article component. Because many PBT chemicals are not manufactured as byproducts and may exist in relatively lower concentrations within products or mixtures, the Agency's initial rationale to allow suppliers to exempt concentrations of PBT chemicals below *de minimis* from supplier notification requirements warrants reconsideration. Therefore, EPA is reassessing this exemption and modifying it appropriately to provide TRI facilities with additional information related to quantities of chemicals of special concern that may contribute to their reporting thresholds. EPA has concluded that it is important and necessary to eliminate the supplier notification de minimis exemption for all chemicals of special concern because if that exemption were to remain in place the Agency may fail to collect information on amounts of such chemicals that significantly exceed the reporting threshold.

This proposed action reflects EPA's current understanding of chemical activities involving all chemicals of special concern (*i.e.,* both PBTs and PFAS).)

Further, as explained above, EPA's understanding is that downstream purchasers of products may lack information on the presence of PFAS in such products. EPA considered limiting the de minimis exception to just PFAS, but creating a patchwork reporting scheme where the *de minimis* exemption is available for supplier notification purposes for certain chemicals of special concern but not other chemicals of special concern, or pursuant to some other unique TRI reporting designation, would create an unnecessary patchwork of reporting requirements that would unnecessarily complicate supplier notification and TRI reporting requirements. EPA requests comment on the proposal to remove the *de minimis* eligibility from the supplier notification for all chemicals of special concern and seeks specific information related to the burden and benefits of this proposed change.

C. Impact of the Proposed Listing of Certain PFAS to the Chemical of Special Concern List

The proposed regulatory text would add PFAS currently on TRI pursuant to 7321(b) and 7321(c) of the NDAA to the list of chemicals of special concern. Additionally, the proposed regulatory text would provide that all PFAS added to TRI pursuant to sections 7321(b) and 7321(c), regardless of the date of their addition, will be included on the chemicals of special concern list. Thus, as PFAS continue to be added to TRI pursuant to sections 7321(b) and 7321(c), they will also be added to the list of chemicals of special concern as of the date they are added to the TRI. This includes substances that meet the criteria pursuant to 7321(b) and 7321(c) but are claimed confidential, and the Agency must follow the process outlined in section 7321(e) of the NDAA to address the claim of confidentiality.

As with PFAS currently on the TRI list, future PFAS added to the TRI list under 7321(b) and 7321(c) will have a 100-pound reporting threshold, per sections 7321(b)(2)(A) and 7321(c)(2)(B). Congress' use of this low reporting threshold demonstrates a concern for even relatively small quantities of these PFAS. Therefore, EPA has concluded that it is appropriate for all PFAS added to the TRI list under these provisions to be added to the chemicals of special concern list upon listing. If these PFAS were not added to the chemicals of special concern list at the time of their addition to the TRI list, there would be a delay in the reporting requirements while EPA conducts a rulemaking simply to add them to the chemicals of special concern list. This would result in differences in how previously listed PFAS and newly listed PFAS are treated even though they were automatically listed with the same reporting thresholds. EPA is proposing regulatory text that would add those PFAS added pursuant to 7321(b) and 7321(c) to the chemicals of special concern list upon their addition to the TRI list. EPA requests comment on whether the addition of these PFAS to the chemicals of special concern list should occur upon addition to the TRI list and on the proposed regulatory text.

EPA is not proposing a definition of PFAS as part of this rulemaking. This rulemaking only concerns chemical substances added to the TRI by sections 7321(b) and 7321(c) of the NDAA, neither of which require EPA to provide a definition of PFAS. Section 7321(b) added by name and/or CASRN specific PFAS to the TRI list and sections 7321(b) and (c) identify EPA activities involving PFAS that would cause a PFAS to be added to the TRI list. The activities described by sections 7321(b) and (c) indicate whether they pertain to a PFAS, and thus a separate determination of whether or not the covered activity involves a PFAS is not necessary. EPA is therefore not proposing a definition of PFAS for purposes of this rulemaking, and issues relating to the definition of PFAS are outside the scope of this rulemaking. EPA requests comment on EPA's interpretation that a definition is unnecessary to this rulemaking. EPA will consider the need for a PFAS

definition for a purpose other than the NDAA section 7321(b) and (c) listings, should the need for such a definition arise.

D. Alternative Mechanisms for PFAS To Be Added to the Chemicals of Special Concern List

PFAS may be added to TRI via methods other than NDAA sections 7321(b) and (c) and this proposal does not address whether PFAS added through such alternative methods should be listed as chemicals of special concern. For example, any PFAS added via section 7321(d)(3) of the NDAA would not be impacted by the regulatory text proposed here. Unlike sections 7321(b) and 7321(c) of the NDAA, Congress did not establish a reporting threshold of 100 pounds for substances added via section 7321(d)(3) of the NDAA. EPA will consider whether it is appropriate to identify these substances as chemicals of special concern when it takes action to add such substances under section 7321(d)(3) of the NDAA.

IV. References

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

1. USEPA. Economic Analysis for the Proposed Changes to TRI Reporting for PFAS. Prepared by Abt Associates for: Data Collection Branch, Data Gathering and Analysis Division, Office of Pollution Prevention and Toxics, Office of Chemical Safety and Pollution Prevention. November 2022.
2. USEPA. Our Current Understanding of the Human Health and Environmental Risks of PFAS. U.S. Environmental Protection Agency, Washington, DC. Available from: *https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas.*
3. ATSDR. Agency for Toxic Substances and Disease Registry. Toxicological Profile for Perfluoroalkyls. May 2021. Available from: *https://www.atsdr.cdc.gov/toxprofiles/tp200.pdf.*
4. ATSDR. Agency for Toxic Substances and Disease Registry. Per- and Polyfluoroalkyl Substances (PFAS) and Your Health. PFAS in the U.S. Population. Available from: *https://www.atsdr.cdc.gov/pfas/health-effects/us-population.html.*
5. Department of Health and Human Services, Centers for Disease Control and Prevention. Fourth National Report on Human Exposure to Environmental Chemicals, Updated Tables. Pages 318–353. February 2015. Available from: *https://www.cdc.gov/biomonitoring/pdf/fourthreport_updatedtables_feb2015.pdf.*
6. National Institute of Environmental Health Sciences. Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS). Available from *https://www.niehs.nih.gov/health/topics/agents/pfc/index.cfm.*
7. Kotthoff, et al. 2015. Perfluoroalkyl and polyfluoroalkyl substances in consumer products. Environmental Science and Pollution Research 22:14546–14559.
8. USEPA. Toxics Release Inventory Form A. Available at: *https://ordspub.epa.gov/ords/guideme_ext/guideme_ext/guideme/file/ry_2021_form_a.pdf.*
9. USEPA. Supporting Statement for an Information Collection Request (ICR).

Under the Paperwork Reduction Act (PRA); Rule-Related Amendment; Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances; Community Right-to-Know Toxic Chemical Release Reporting, Proposed Rule (RIN 2070–AK97). EPA ICR No.2724.01; OMB Control No. 2070-[new]. November 2022.

V. Statutory and Executive Orders Reviews

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

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket. EPA prepared an economic analysis of the potential costs and benefits associated with this action. This analysis (Ref. 1) is available in the docket and summarized in Unit I.E.

B. Paperwork Reduction Act (PRA)

The new information collection activities in this proposed rule have been submitted for approval to OMB under the PRA, 44 U.S.C. 3501 *et seq.* The information Collection Request (ICR) document that EPA prepared is assigned EPA ICR No. 2724.01 (Ref. 9). You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

Currently, the facilities subject to the reporting requirements under EPCRA section 313 and PPA section 6607 may use either EPA Toxic Chemicals Release Inventory Form R (EPA Form 1B9350–1), or EPA Toxic Chemicals Release Inventory Form A (EPA Form 1B9350-2). The Form R must be completed if a facility manufactures, processes, or otherwise uses any listed chemical above threshold quantities and meets certain other criteria. For the Form A, EPA established an alternative threshold for facilities with low annual reportable amounts of a listed toxic chemical. A facility that meets the appropriate reporting thresholds, but estimates that the total annual reportable amount of the chemical does not exceed 500 pounds per year, can take advantage of an alternative manufacture, process, or otherwise use threshold of 1 million pounds per year of the chemical, provided that certain conditions are met, and submit the Form A instead of the Form R. In addition, respondents may designate the specific chemical identity of a substance as a trade secret pursuant to EPCRA section 322 (42 U.S.C. 11042) and 40 CFR part 350. OMB has approved the reporting and recordkeeping requirements related to Forms A and R, supplier notification, and petitions under OMB Control number 2070–0212 (EPA ICR No. 2613.04) and those related to trade secret designations under OMB Control 2050–0078 (EPA ICR No. 1428). As such, this ICR is intended to amend the existing ICR to include the following additional details:

- *Respondents/affected entities:* Facilities covered under EPCRA section 313 that manufacture, process or otherwise use listed PFAS (See Unit I.A.).
- *Respondent's obligation to respond:* Mandatory (EPCRA section 313).
- *Estimated number of respondents:* 605 to 1,997.
- *Frequency of response:* Annual.
- *Total estimated burden:* 45,363 and 149,737 burden hours in the first year and approximately 21,602 and 71,303 burden hours in the steady state. Burden is defined at 5 CFR 1320.3(b).
- *Total estimated cost:* Approximately $3,064,271 and $10,114,734 in the first year of reporting and approximately $1,459,215 and $4,816,518 in the steady state.

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 OMB control numbers for the EPA regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods

for minimizing respondent burden to the EPA using the docket identified at the beginning of this proposed rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than January 4, 2023. EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* The small entities subject to the requirements of this action are primarily classified within the manufacturing and waste management industry sectors. The Agency has determined that of the 605 to 1,997 entities estimated to be impacted by this action, 467 to 1,313 are small businesses; no small governments or small organizations are expected to be affected by this action. The average cost per small firm is $2,714 (at a 3% discount rate) or $2,765 (at a 7% discount rate). The total cost for small entities is $1,267,363–$3,563,272 (at a 3% discount rate) or $1,291,213–$3,630,327 (at a 7% discount rate). All small businesses affected by this action are estimated to incur annualized cost impacts of less than 1%. Even under a worst-case scenario comparing compliance costs to average revenue of firms with between 10 (smallest number required to report) and 14 employees instead of comparing compliance costs to the weighted average revenue of small firms, there are still no costs that exceed the 1% impact threshold. Thus, this action is not expected to have a significant adverse economic impact on a substantial number of small entities. A more detailed analysis of the impacts on small entities is provided in EPA's economic analysis (Ref. 1).

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. This action is not subject to the requirements of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. EPA did not identify any small governments that would be impacted by this action. EPA's economic analysis indicates that the total cost of this action is estimated to be from $3,064,271 and $10,114,734 in the first year of reporting and from $1,459,215 and $4,816,518 in subsequent reporting years (Ref. 1).

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13175 does not apply to this action.

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

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

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

This action is not a ''significant energy action'' as specified in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. As such, NTTAA section 12(d), 15 U.S.C. 272 *note,* does not apply to this action.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations.

The EPA believes that this type of action does not directly concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. This regulatory action makes changes to the reporting requirements for PFAS that will result in more information being collected and provided to the public; it does not have any direct impact on human health or the environment. This action does not address any human health or environmental risks and does not affect the level of protection provided to human health or the environment. This action makes changes to the reporting requirements for PFAS which will provide more information on releases and waste management of PFAS. By requiring reporting of this additional information, EPA would be providing communities across the U.S. (including minority populations and low-income populations) with access to data which they may use to seek lower exposures and consequently reductions in chemical risks for themselves and their children. This information can also be used by government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential risks to human health and the environment. Therefore, the informational benefits of the action will have a positive impact on the human health and environmental impacts of minority populations, low-income populations, and indigenous peoples.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: November 22, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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

PART 372—TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

§ 372.22 [Amended]

■ 2. In § 372.22, amend paragraph (c) by revising the text ''§ 372.25, § 372.27, § 372.28, or § 372.29'' to read ''§§ 372.25, 372.27, or 372.28''.

§ 372.25 [Amended]

■ 3. Amend § 372.25 by:

■ a. Revising in the introductory text paragraph, the text ''Except as provided in § 372.27, § 372.28, and § 372.29'' to read ''Except as provided in §§ 372.27 and 372.28''; and

■ b. Revising in paragraphs (f), (g), and (h), the text ''§ 372.27, § 372.28, or § 372.29'' to read ''§§ 372.27 or 372.28''.

■ 4. Amending in § 372.28, the table in paragraph (a)(1) by:

■ a. Revising the column heading ''Reporting threshold'' to read ''Reporting threshold (in pounds)''; and

■ b. Adding in alphabetical order an entry for ''Per- and polyfluoroalkyl substances.''

The additions and revisions read as follows:

§ 372.28 Lower thresholds for chemicals of special concern.

* * * * *

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Chemical name	CAS No.	Reporting threshold (in pounds)
*	*	*
Per- and polyfluoroalkyl substances (Individually listed per- and polyfluoroalkyl substances added by 15 U.S.C. 8921(b)(1) and (c)(1). (EPA periodically updates the lists of covered chemicals at § 372.65(d) and (e) to reflect chemicals that have been added by 15 U.S.C. 8921).	see § 372.65(d) and (e)	100
*	*	*

§ 372.29 [Removed]

■ 5. Remove § 372.29.

§ 372.30 [Amended]

■ 6. Amend § 372.30 by:

■ a. Revising in paragraph (a) the text ''in § 372.25, § 372.27, § 372.28, or § 372.29 at'' to read ''in §§ 372.25, 372.27, or 372.28 at''.

■ b. Revising in paragraphs (b)(1), the introductory text of (b)(3), and in paragraphs (b)(3)(i) and (b)(3)(iv), revise the reference ''§ 372.25, § 372.27, § 372.28, or § 372.29'' to read ''§§ 372.25, 372.27, or 372.28''.

§ 372.38 [Amended]

■ 7. Amend § 372.38 by:

■ a. Removing in paragraph (a)(2), the text ''except for purposes of § 372.45(d)(1)''; and

■ b. Revising in paragraphs (b), (c), (d), (f), (g) and (h), the text ''§ 372.25, § 372.27, § 372.28, or § 372.29'' to read ''§§ 372.25, 372.27, or 372.28''.

■ 8. In § 372.45 revise paragraph (d)(1) to read as follows:

§ 372.45 Notification about toxic chemicals.

* * * * *

(d) * * * (1) If a mixture or trade name product contains no toxic chemical in excess of the applicable *de minimis* concentration as specified in § 372.38(a), except for chemicals listed in § 372.28(a) that are excluded from the *de minimis* exemption.

* * * * *

[FR Doc. 2022–26022 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 221129–0252]

RIN 0648–BL35

Pacific Island Fisheries; 2022–2025 Annual Catch Limits and Accountability Measures for Main Hawaiian Islands Deepwater Shrimp and Precious Coral Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement annual catch limits (ACL) and accountability measures (AM) for main Hawaiian Islands (MHI) deepwater shrimp and precious coral for each fishing year in the time period between 2022 and 2025. As a post-season AM, if NMFS determines that the most recent three-year average total catch exceeded an ACL in a fishing year, we would reduce the ACL for the following fishing year by the amount of the overage. This proposed rule supports the long-term sustainability of MHI deepwater shrimp and precious coral.

DATES: NMFS must receive comments by January 4, 2023.

ADDRESSES: You may submit comments on the proposed rule, identified by NOAA–NMFS–2022–0113, by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2022–0113 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Send written comments to Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or

individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The Western Pacific Fishery Management Council (Council) and NMFS prepared an environmental assessment (EA) that supports this proposed rule. The EA is available at *www.regulations.gov,* or from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, or *www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, NMFS PIRO Sustainable Fisheries, 808–725–5177.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage fisheries in the U.S. Exclusive Economic Zone (EEZ, or Federal waters) around Hawaii under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), with regulations at 50 CFR part 665. The FEP contains a process for the Council and NMFS to specify ACLs and AMs, codified at 50 CFR 665.4. NMFS must specify ACLs and AMs for each stock and stock complex of management unit species (MUS) in an FEP, as recommended by the Council and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include an AM reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action.

This proposed rule would establish the following ACLs for MHI deepwater shrimp and precious coral for each fishing year in the time period between 2022 and 2025 and they are consistent with past ACLs for these fisheries:

TABLE 1—ANNUAL CATCH LIMITS FOR MAIN HAWAIIAN ISLANDS DEEPWATER SHRIMP AND PRECIOUS CORALS FOR EACH FISHING YEAR IN THE TIME PERIOD BETWEEN 2022 AND 2025

Fishery	Stock	ACL (lb)
Crustacean	Deepwater shrimp	250,773
Precious Coral	Auau Channel—Black coral	5,512
Precious Coral	Makapuu Bed—Pink and red coral	2,205
Precious Coral	Makapuu Bed—Bamboo coral	551
Precious Coral	180 Fathom Bank—Pink and red coral	489
Precious Coral	180 Fathom Bank—Bamboo coral	123
Precious Coral	Brooks Bank—Pink and red coral	979
Precious Coral	Brooks Bank—Bamboo coral	245
Precious Coral	Kaena Point Bed—Pink and red coral	148
Precious Coral	Kaena Point Bed—Bamboo coral	37
Precious Coral	Keahole Bed—Pink and red coral	148
Precious Coral	Keahole Bed—Bamboo coral	37
Precious Coral	Hawaii Exploratory Area—precious coral	2,205

This proposed rule is consistent with recommendations made by the Council at its March 2022 meeting. The Council recommended that NMFS implement ACLs and AMs for all subject stocks for each fishing year in the time period between 2022 and 2025. The fishing year is the calendar year for deepwater shrimp and July 1 through June 30 for precious coral.

As a post-season AM for each stock, NMFS and the Council will evaluate the catch after each fishing year relative to the ACL. If NMFS and Council determine the average catch of the three most recent years exceeds an ACL, NMFS will reduce the ACL for the subsequent fishing year through a separate rulemaking. These proposed 2022–2025 ACLs are unchanged from past deepwater shrimp and precious coral ACLs. The subject fisheries have not caught their specified ACLs in any year since the ACLs were first implemented in 2012. There are currently two active Federal permits for the deepwater shrimp fishery and none for precious coral.

NMFS will consider public comments on this proposed rule and will announce the final rule in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** section above. Regardless of the final rule, all other management measures will continue to apply in the fisheries.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Regulatory Flexibility Act (RFA) Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, issued under the authority of the Magnuson-Stevens Act, would not have a significant economic impact on a substantial number of small entities. This proposed rule would specify ACLs and AMs for Hawaii deepwater shrimp for 2022, 2023, 2024, and 2025 and for Hawaii precious corals for 2022–2023, 2023–2024, and 2024–2025. The proposed ACLs for each fishing year in the time period between 2022 and 2025 would be as follows:

- *Hawaii deepwater shrimp:* 250,773 lb;
- *Auau Channel black coral:* 5,512 lb;
- *Makapuu Bed Established Bed pink coral:* 2,205 lb;
- *Makapuu Bed Established Bed bamboo coral:* 551 lb;
- *180 Fathom Bank Conditional Bed pink coral:* 489 lb;
- *180 Fathom Bank Conditional Bed bamboo coral:* 123 lb;
- *Brooks Bank Conditional Bed pink coral:* 979 lb;
- *Brooks Bank Conditional Bed bamboo coral:* 245 lb;

- *Kaena Point Conditional Bed pink coral:* 148 lb;
- *Kaena Point Conditional Bed bamboo coral:* 37 lb;
- *Keahole Conditional Bed pink coral:* 148 lb;
- *Keahole Conditional Bed bamboo coral:* 37 lb;
- *Hawaii Exploratory Area pink coral:* 2,205 lb;
- *Hawaii Exploratory Area bamboo coral:* 2,205 lb.

Catch of Hawaii deepwater shrimp and precious corals in state and Federal waters would all count toward the ACLs under this action. This would include catch by anyone who is required to report catch to state or Federal agencies. In recent years, a range of three to ten fishermen participated in the Hawaii deepwater shrimp fishery, while no more than one or two fishermen participated in the precious corals fishery. This action would likely apply to 12 or fewer fishermen across Hawaii.

With respect to deepwater shrimp, based on the recent average annual landings of 8,819 lb from 2019 through 2021 and using the average price over the 2018–2021 time-frame of $8.63, the annual commercial value of the fishery is approximately $76,108. With an estimated 3 to 10 vessels having fished for deepwater shrimp in recent years, NMFS estimates that the average revenue for each vessel would range from $7,611 to $25,369.

Recent estimates of black coral values suggest prices per pound from 2000 to 2020 were $36.30 per pound on average, suggesting that recent revenue could range anywhere from approximately $10,000 to $25,000 annually, depending on the price. The pink and bamboo coral fisheries have been inactive for at least 20 years.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all affected entities are small entities under the SBA definition of a small entity, *i.e.,* they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have gross receipts not in excess of $11 million. Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

Because the proposed ACLs are the same as those implemented in recent years, and since recent catch has not been constrained by ACLs, this proposed action is not expected to affect participants of these fisheries. Neither would this proposed action disproportionately affect vessels by gear types, areas fished, or home ports. Thus, this action would not result in significant economic impacts to fishery participants. Furthermore, NMFS and the Council are not considering in-season closures for these fisheries because fishery management agencies are not able to track catch relative to the ACLs during the fishing year. Therefore, there is no potential for effects on fishermen from a closure of the deepwater shrimp and precious coral fisheries. A post-season review of the catch data would be required to determine whether any fishery exceeded its ACL by comparing the ACL to the most recent three-year average catch for which data is available. If an ACL is exceeded, the Council and NMFS would take action to mitigate the overage by reducing the ACL for that fishery in the subsequent year. If an ACL is exceeded more than once in a four-year period, the Council and NMFS would take action to correct the operational issue that caused the ACL overages. NMFS and the Council would evaluate the environmental, social, and economic impacts of future actions, such as changes to future ACLs or AMs, after the required data are available.

Therefore, fishermen in the deepwater shrimp and precious coral fisheries should be able to fish throughout the entire year. The ACLs, as proposed, would not change the gear type, areas fished, effort, or participation of the fisheries during the fishing years under consideration. The proposed action does not duplicate, overlap, or conflict with other Federal rules. For all of these reasons, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Deepwater shrimp, Precious coral, Fisheries, Fishing, Hawaii, Pacific Islands.

Dated: November 30, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

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

■ 2. In § 665.253, revise paragraph (a)(1) to read as follows:

§ 665.253 Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

(a) *Deepwater shrimp.*

(1) In accordance with § 665.4, the ACLs for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (a)(1)

Fishing year	2022	2023	2024	2025
ACL (lb)	250,773	250,773	250,773	250,773

* * * * *

■ 3. In § 665.269, revise paragraph (c) to read as follows:

§ 665.269 Annual Catch Limits (ACL).

* * * * *

(c) In accordance with § 665.4, the ACLs for MHI precious coral permit areas for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (c)

Type of coral bed	Area and coral group	2022–23 ACL (lb)	2023–24 ACL (lb)	2024–25 ACL (lb)
Established bed	Auau Channel—Black coral	5,512	5,512	5,512
	Makapuu Bed—Pink and red coral	2,205	2,205	2,205
	Makapuu Bed—Bamboo coral	551	551	551
Conditional Beds	180 Fathom Bank—Pink and red coral	489	489	489
	180 Fathom Bank—Bamboo coral	123	123	123
	Brooks Bank—Pink and red coral	979	979	979
	Brooks Bank—Bamboo coral	245	245	245
	Kaena Point Bed—Pink and red coral	148	148	148
	Kaena Point Bed—Bamboo coral	37	37	37
	Keahole Bed—Pink and red coral	148	148	148
	Keahole Bed—Bamboo coral	37	37	37
Exploratory Area	Hawaii—precious coral	2,205	2,205	2,205

* * * * *

[FR Doc. 2022–26407 Filed 12–2–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 232
Monday, December 5, 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

National Institute of Food and Agriculture

Notice of Intent To Extend and Revise a Previously Approved Information Collection

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, this notice announces the National Institute of Food and Agriculture's (NIFA) intention to extend and revise a previously approved information collection, entitled *Expanded Food and Nutrition Education Program (EFNEP).*

DATES: Written comments on this notice must be received by February 3, 2023 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: You may submit comments through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Laura Givens, 816–527–5379, *Laura.Givens@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Expanded Food and Nutrition Education Program.

OMB Control Number: 0524–0044.

Expiration Date of Current Approval: 3/31/2023.

Type of Request: Notice of intent to extend and revise a previously approved information collection for three years.

Abstract: NIFA's Expanded Food and Nutrition Education Program (EFNEP) at United States Department of Agriculture (USDA) is a unique program that began in 1969 and is designed to reach limited resource audiences, especially youth and families with young children. EFNEP is authorized under section 1425 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175 and funded under section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)). Extension professionals train and supervise paraprofessionals and volunteers who teach food and nutrition information and skills to families and youth with limited financial resources. EFNEP operates through the 1862 and 1890 Land Grant Universities (LGU) in all 50 States, the District of Columbia, and in American Samoa, Guam, Micronesia, Northern Marianas, Puerto Rico, and the Virgin Islands.

The objectives of EFNEP are to assist families and youth with limited resources in acquiring the knowledge, skills, attitudes, and changed behaviors necessary for nutritionally sound diets, and to contribute to their personal development and the improvement of the total family diet and nutritional well-being.

NIFA sponsors an integrated data collection process that is used at the county, State, and Federal level. The current data collection system, the Web-based Nutrition Education Evaluation and Reporting System (WebNEERS), captures EFNEP impacts. Its purpose is to gauge if the Federal assistance provided has had an impact on the target audience. It also enables EFNEP staff to make programmatic improvements in delivering nutrition education. Further, the data collected provide information for program management decisions and diagnostic assessments of participants' needs and program fidelity. In order to capture all of EFNEP's reporting requirements in one place, EFNEP program plans and budgetary data are now submitted, reviewed, and approved through WebNEERS. These specific reporting requirements are tied to release of Federal EFNEP funds.

WebNEERS grew out of EFNEP's long-standing commitment to program evaluation. Since EFNEP's inception in 1969, states have annually reported demographic and dietary behavior change of their EFNEP audience to the federal National Program Leader at NIFA, and its preceding agencies within USDA. Increased rigor and attention to data collection began in 1990 in response to communications with staff from the House Committee on Agriculture, who expressed a need for greater accountability and the ability to show the degree to which EFNEP was meeting its objectives. Representatives from the Economic Research Service, Food and Nutrition Service, USDA Office of Budget and Program Analysis, as well as evaluation specialists from the Federal Extension Service and its university partners, identified the most valuable behaviors to measure, which then became the core components of the system. Concurrence was received from staff for the House Committee on Agriculture. Over the years, the system has been upgraded to align with technological advancements, incorporate relevant evidence-based practices and practice-based evidence, and address changes in data collection standards and requirements (*e.g.,* data collection on race/ethnicity, updates to the U.S. dietary guidelines, etc.). Data submission has evolved from paper forms, to discs, to the current web-based system. With each of these evolutionary changes, the data collection system was also reviewed for appropriateness and need for changes to collected content. Development of WebNEERS began in FY 2011; national implementation of this web-based platform began in FY 2013. WebNEERS and its predecessor collection systems have been approved by OMB.

Specifications for WebNEERS were developed by a committee of representatives from the EFNEP and Extension community and others with content and audience expertise from across the United States. These specifications are in compliance with Federal Equal Employment Opportunity standards for maintaining, collecting, and presenting data on race and ethnicity, and protecting personally identifiable information.

WebNEERS stores information on:

(1) Adult program participants, their family structure, and dietary practices;

(2) Youth group participants;

(3) Staff;

(4) Annual budgets; and

(5) Annual program plans.

WebNEERS is a secure online system designed, hosted, and maintained by Clemson University. WebNEERS is accessed through the internet via

internet Explorer, Firefox, Google Chrome, and Safari web browsers. It can also be accessed through mobile devices and tablets. The existing system incorporates local, university, and Federal components, the EFNEP 5-Year Plan/Annual Update (program plan), the EFNEP budget and budget justification, and the social ecological framework of the Community Nutrition Education (CNE) logic model. Only approved users can access WebNEERS and each user can only access data based on their defined permissions. The system also has the capability to export raw data for external analysis. Data exported from WebNEERS does not include personally identifiable information (PII). Several stakeholder groups provide ongoing input on the system to: (1) Ensure that EFNEP only collects data NIFA needs for evaluation and reporting purposes, and (2) Resolve bugs or other concerns experienced by users. These stakeholder groups also give feedback to improve user interfaces and to improve functionality and capabilities of the system.

The evaluation processes of EFNEP remain consistent with the requirements of Congressional legislation and OMB, including the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62).

WebNEERS is a single web-based system that operates at three levels: Region (County); Institution (university), and Federal. Data is entered at the regional level and is available in aggregated form at the Institution level in real time. University staff are able to generate institutional-level reports to guide program management decisions and to inform State-level stakeholders. In States that have both 1862 and 1890 LGUs, separate reports are generated by each type of institution on the respective audiences served. A permissions process is used to allow data to flow from the Region to the Institution to the Federal level. Data is not available at the Federal level until the university staff submits it. This process allows for State and National assessments of the program's impact. National data is used to create National reports, which are made available to the public.

There are revisions to the currently approved collection. WebNEERS uses an agile development process, which allows software developers to work closely with users to operate smoothly, maintain securities, improve efficiencies, and function effectively in the ever-changing environment in which EFNEP is administered. It also supports an accelerated incorporation of research-based indicators to appropriately identify behavioral change.

NIFA is proposing a number of revisions to the previously approved collection. The revised form will include ten additional questions on the Adult Food and Physical Activity Questionnaire. The additional questions were recommended by a multistate research group with programmatic expertise and experience and will allow for greater accuracy in reporting program impacts. NIFA also proposes to utilize a direct data app that will allow participants to enter their own data. This will improve data quality and reduce the amount of time required to complete the collection. Additionally, NIFA is proposing changes designed to improve accessibility. Finally, NIFA will include technology indicators that better reflect the technology approaches that have been incorporated into EFNEP program delivery.

Estimate of Burden: The total annual estimated burden for this information collection is 14,744 hours. This includes the time needed for participant education and data entry, aggregation, and reporting; and for preparation, review, and submission of EFNEP program plans and budgetary information.

Estimated Number of Respondents: 76.

Annual Responses: 76.

Average Time to Complete Each Response: 194 hours.

Burden Hours: 14,744.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Obtaining a Copy of the Information Collection: A copy of the information collection and related instructions may be obtained free of charge by contacting Laura Givens as directed above.

Done at Washington, DC, this day of November 17, 2022.

Dionne Toombs,

Acting Director, National Institute of Food and Agriculture, U.S. Department of Agriculture.

[FR Doc. 2022–26399 Filed 12–2–22; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS–22–Business–0024]

Inviting Applications for Agriculture Innovation Demonstration Center Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of funding availability.

SUMMARY: The Rural Business-Cooperative Service (Agency), an agency of the United States Department of Agriculture (USDA), announces that it is accepting fiscal year (FY) 2023 applications for the Agriculture Innovation Demonstration Center (AIC) program. In FY 2023, the program has $8,005,621 available for grant funding. The purpose of this program is to establish and operate Agriculture Innovation Centers (Centers) that provide technical and business development assistance to Agricultural Producers seeking to engage in developing and marketing of Value-Added Agricultural Products. This program supports Rural Development's (RD) mission of improving the quality of life for rural Americans and commitment to directing resources to those who most need them.

DATES:

1. Application Deadline. Completed applications for grants must be submitted electronically by no later than 11:59 p.m. Eastern Time, March 6, 2023, through *Grants.gov*. Late applications are not eligible for funding under this notice and will not be evaluated. All components of the application must be submitted with the *Grants.gov* submission. The Agency will not accept additional information through other submission methods, such as email or courier delivery.

2. Training Session. The Agency will offer one training session for potential applicants on January 13, 2023 at 1 p.m. Eastern Time (ET). The training session will provide an overview of the requirements for the program and address questions posed by potential applicants. It is expected that the session will be offered via webinar and will have a duration of approximately

two hours. The session will be recorded and available for viewing within two weeks. Details for how to access the webinar and recording will be posted on the program's website. Applicants can register for the webinar at: *https://www.zoomgov.com/webinar/register/WN_AZxgP03KQwSFLMNm6NOhUQ.*

ADDRESSES: Application materials are available on *Grants.gov* and on the program website at: *https://rd.usda.gov/programs-services/business-programs/agriculture-innovation-center-program.* Applications must be submitted through *Grants.gov*.

FOR FURTHER INFORMATION CONTACT: Gail Thuner, Direct Programs Branch, Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW, MS 3201, Room 5803-South, Washington, DC 20250–3250, or call 202–720–1400, or email *SM.RBCS.AIC@usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: USDA Rural Business-Cooperative Service.

Funding Opportunity Title: Agriculture Innovation Demonstration Center.

Announcement Type: Notice of Funding Availability.

Funding Opportunity Number: RBCS–AIC–2023.

Assistance Listing: 10.377.

Dates: Application Deadline. Your application must be received by *Grants.gov* no later than 11:59 p.m. Eastern Time, March 6, 2023, or it will not be considered for funding.

Administrative: The Agency encourages applicants to consider projects that will advance the following key priorities.

- Assisting rural communities in their efforts to recover economically through more and better market opportunities and through improved infrastructure.
- Ensuring all rural residents have equitable access to Rural Development programs and benefits from Rural Development funded projects.
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

More details on the key priorities may be found at *https://www.rd.usda.gov/priority-points.*

A. Program Description

1. *Purpose of the Program.* The objective of the AIC program is to provide technical assistance to Agricultural Producers to develop and market Value-Added Agricultural Products through Centers.

2. *Statutory Authority.* The AIC program is authorized by section 7608 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1632b) and is implemented by 7 CFR part 4284 subparts A and K, which are incorporated by reference into this notice.

3. *Definitions.* The terms you need to understand are defined and published at 7 CFR 4284.3, 7 CFR 4284.1004, and 7 CFR 4284.902. The term ''you'' referenced throughout this notice should be understood to mean ''you'' the applicant. Additional definitions are included below.

(a) *Agricultural Commodity Organization* means an organization that exclusively represents a single Agricultural Commodity or group of similar commodities either on behalf of the commodity itself or on behalf of the Agricultural Producers who grow or raise it. The representation can be at a local, State, regional, or national level. Examples are Agricultural Commodity Marketing Boards established by States, a national association representing corn growers, and a regional association representing vegetable and berry growers.

(b) *Conflict of Interest* means a situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, neither grant nor matching funds may be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. Examples of conflicts of interest include using grant or matching funds to pay a member of the applicant's Board of Directors to provide Producer Services and using grant or matching funds to pay an immediate family member of the applicant to provide Producer Services. Note that the conflict of interest does not include cases when the State's Secretary of Agriculture or an employee of the State's Department of Agriculture acts as a member of the Board of Directors.

(c) *General Agricultural Organization* means an organization that represents agriculture in general, without restriction to any specific group, commodity, or sector. Representing agriculture through policy making, education, and/or marketing must be the sole purpose of the organization. The organization must represent Agricultural Producers, although it may represent processors and other stakeholders as well. The representation can occur at the State, regional, or national level. Examples include organizations that represent farmers and ranchers and organizations that represent sustainable farming. Note that organizations representing organic agriculture and credit organizations are not considered part of this definition.

(d) *Qualified Board of Directors* means a Board of Directors that includes, but is not limited to, representatives from each of the following groups: (1) two General Agricultural Organizations with the greatest number of members in the State in which the Center is located, (2) the department of agriculture, or similar State department or agency or a State legislator, of the State in which the Center is located, and (3) four Agricultural Commodity Organizations representing different commodities produced in the State in which the Center is located. Note that no representative may represent more than one group or organization. Board of Director representatives must not have any Conflicts of Interest. Note that this definition supersedes the existing definition at 7 CFR 4284.1004 based on the revision established by Public Law 115–334 (the 2018 Farm Bill or Agriculture Improvement Act of 2018).

B. Federal Award Information

Type of Award: Competitive Grant.

Fiscal Year Funds: FY 2023.

Total Funding: $8,005,621. RBCS may at its discretion, increase the total level of funding available in this funding round [or in any category in this funding round] from any available source provided the awards meet the requirements of the statute which made the funding available to the agency.

Minimum Award: $600,000.

Maximum Award: $1,000,000.

Project Period: 3 years.

Anticipated Award Date: August 2, 2023.

C. Eligibility Information

1. *Eligible Applicants.* You must meet all of the following eligibility requirements. Applicants and/or applications which fail to meet any of these requirements by the application deadline will not be evaluated further or considered for funding.

(a) *Applicant Eligibility.*

(1) Eligible Entities. Grants may be made to Nonprofit Organizations, Commercial Organizations, Local Governments, State Governments, Indian Tribes, and Institutions of Higher Education. Consortiums are also eligible to apply, but they must select a single organization to represent the consortium as the applicant. Only the applicant organization must meet the eligibility requirements. Note that applicant organizations must be prepared to act as Centers to provide Producer Services. Grant awards are not made directly to businesses or Agricultural Producers to market Value-Added Agricultural Products. Organizations that propose to use grant award funds to earn revenue processing and selling value-added products are not eligible. (See section D 2(b)(xii) of this notice for the information you are required to submit in your application for the Agency to assess your eligibility as an eligible entity.)

(2) Independent Governance. The Center must be independently governed, although it does not have to be a separate legal entity from the applicant organization. If the applicant is a parent organization or institution of higher education, you must demonstrate that there is a separate Board of Directors for the Center and that the Center has independent governance. The Center has independent governance if it has control over personnel decisions, including hiring and firing employees and contractors; setting policies and procedures, including personnel and procurement; developing and approving its budget; and selecting its own Board of Directors, which shall not include any members who are affiliated with the parent organization. (See section D 2(b)(xiv) of this notice for the information you are required to submit in your application for the Agency to assess whether your organization meets the requirement for independent governance.)

(3) Qualified Board of Directors. The Board of Directors for the Center must meet the definition for Qualified Board of Directors in section A 3(d) of this notice. (See section D 2(b)(xv) of this notice for the information you are required to submit in your application for the Agency to assess whether your Center's Board of Directors meets the definition.)

(4) Existing Capability to Provide Services. You must be able to demonstrate that you have previously provided services similar to the Producer Services defined in 7 CFR 4284.1004 or that you have the capability to provide those services. In order to be considered qualified, you must either demonstrate at least three years of experience during the last five years providing the same type of Producer Services as those proposed in the application and show a record of at least three positive outcomes or you must demonstrate that you currently have at least two key personnel committed to the project who have the same level of experience and positive outcomes, even if they have not worked for you for at least three years. (See section D 2(b)(xvi) of this notice for the information you are required to submit in your application for the Agency to assess whether your organization meets the requirement for existing capability to provide services.)

(5) Support of Agricultural Community. You must demonstrate that at least three relevant agricultural organizations support your project. The support is relevant if the supporting organization is based in the State or region in which the project will take place and if the organization serves the same group of producers (either directly or through commodity/marketing efforts) targeted by the proposed project. (See section D 2(b)(xvii) of this notice for the information you are required to submit in your application for the Agency to assess whether your organization has the required support from the agricultural community.

(6) Financial Capability. The Agency will assess the financial statements from your most recent audit to confirm that you possess sufficient financial capabilities for the proposed project. In particular, you must have a current ratio of at least 1:1 and the ability to provide sufficient cash flow to cover at least three months of total project costs to account for the lag between when expenses are incurred, and award funds are disbursed. If you do not meet these requirements, you are not eligible for funding. The Agency will also review your audit and any notes and findings, and if the Agency determines that your financial capability would preclude you from properly managing Federal funds, your organization will not be eligible for an award. The Agency may also identify any concerns that might require special conditions if an award is made. (See section D 2(b)(xix) of this notice for the information you are required to submit in your application for the Agency to assess whether your organization has the required financial capability.)

(7) Satisfactory Performance. The Agency will check the Federal Awardee Performance and Integrity Information System as well as the Do Not Pay system prior to awarding funds. These systems track all Federal awards. If you have deficiencies identified in either system, the Agency may either discontinue processing your application if the deficiencies are significant or indicate a lack of capability to accomplish the proposed project, or the Agency may impose special conditions to address the deficiencies. Special conditions may include, but are not limited to, more frequent reporting, more detailed reporting, and the addition of benchmarks or checkpoints to assess progress.

(8) Number of Applicants. Only one organization can be listed as an applicant on an application, even if the project will be completed by a consortium or partnership. Collaboration and partnerships are encouraged, but one organization must be responsible for administering the award, if approved. Typically, we would expect collaborations to involve contributions of matching funds or procurement contracts.

(b) *Ineligible Applicants.* Organizations are ineligible if the following apply.

(1) Entity Type. Individuals are not eligible for funding.

(2) Debarment and Suspension. An applicant is ineligible if they have been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' In addition, an applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), a delinquency on the payment of Federal income taxes, or a delinquency on Federal debt. The applicant must certify as part of the application that it does not have an outstanding judgment against it. The Agency will check the Do Not Pay system to verify the certification. (See section D 2(b)(x) of this notice for the information you are required to submit in your application for the Agency to assess whether you are ineligible due to outstanding judgments and/or delinquent Federal debt.)

(3) Felony Criminal Violations or Unpaid Tax Liabilities. Any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by the Consolidated

Appropriations Act, 2022 (Pub. L. 117–103), unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

2. *Cost Sharing or Matching.* Matching funds are required for at least one-third of the total project budget. For example, if the total project budget is $1,500,000, matching funds must be at least $500,000. Matching funds may be provided in cash by the applicant or a third party or in-kind by a third party. They must be available for use during the period of performance, and they must be used for allowable expenses. Applicants cannot propose to use unrecovered indirect costs as matching funds. (See section D 2(b)(xiii) of this notice for the information you are required to submit in your application for the Agency to assess whether your organization has sufficient matching funds committed to the proposed project.)

3. *Other Eligibility Requirements.*

(a) *Improving Value-Added Markets:* Your project must focus on increasing and improving the ability of local Agricultural Producers to develop markets and processes for Value-Added agricultural commodities or products. (See section D 2(b)(iv) of this notice for the information you are required to submit in your application for the Agency to assess whether your project has the required focus.)

(b) *Use of Funds:* Grant Award funds may be used only to provide the following Producer Services directly to Agricultural Producers for the purpose of developing and marketing a Value-Added Agricultural Product. The categories listed below are allowable uses of funds. For information on selected items that are not allowable for funding under this notice, please review section D 5 of this notice, ''Funding Restrictions.''

(1) Business Development Services. Business Development Services include feasibility studies, business plans, and other types of technical assistance and applied research that support business development.

(2) Market Development Services. Market development services include marketing plans, branding, and customer identification.

(3) Financial Advisory Services. Financial advisory services include assistance with preparing financial statements, assessing financing options, and other types of financial guidance related to the development, expansion, or operation of a business.

(4) Process Development Services. Process development services include the following:

(i) Engineering services, including scale-up of production systems (not to include cost of renovating or constructing a facility or system).

(ii) Scale production assessments, defined as studies that analyze facilities, including processing facilities, for potential value-added activities to determine the size that optimizes construction and other cost efficiencies.

(iii) Systems development.

(iv) Other technical assistance and applied research related to development, implementation, improvement and operations of processes and systems to produce and market a Value-Added Agricultural Product.

(5) Organizational Assistance. Organizational assistance includes legal and technical advisory services related to the development, expansion, or operation of a business.

(6) Value Chain Coordination. Value chain coordination includes assistance with connecting an Agricultural Producer to a distribution system, processing facility, or commercial kitchen.

(7) Product Development. Product development (excluding research and development) includes the stages involved in bringing a product from idea or concept through commercial-scale production, including concept testing; feasibility and cost analysis; product taste-testing; demographic and other types of consumer analysis; production analysis; and evaluation of packaging and labeling options.

(8) Grants of $5,000 or less to Agricultural Producers for the above services, where the aggregate amount of all such matching grants made by the Center does not exceed $50,000. Note that these ''mini-grants'' are considered pass-through awards. Therefore Centers and the subrecipients must comply with all Federal and programmatic requirements for pass-through entities and awards, including, but not limited to, Pre-Award Requirements, Award Requirements, Post-Award Requirements, Property Standards, Procurement Standards, Performance and Financial Monitoring and Reporting, Subrecipient Monitoring and Reporting, Record Retention and Access, Remedies for Noncompliance, Closeout, Post-Closeout Adjustments and Continuing Responsibilities. Pass-Through Entities are responsible for acting on behalf of the Federal Agency when determining eligibility for the mini-grants as well as compliance with Federal and program requirements. Subrecipients of the mini-grants must be eligible to receive a Federal award, use grant award and matching funds for allowable costs, provide at least one-third of the total project costs in matching funds, and meet all other Federal and program requirements for this program.

(9) Center Start-up and Operation. Center start-up and operation costs include expenses associated with establishing and operating a Center, such as legal services, accounting services, clerical assistance, technical services, hiring employees, monitoring contracts, and Board of Director travel.

(c) *Period of Performance:* The proposed period of performance must be three years, or the application will not be considered for funding. The proposed start date must be no earlier than three months after the expected award date and no later than six months after the expected award date. Extensions will not be approved.

(d) *Application Completeness:* Your application must provide all the information requested in section D 2(b) of this notice. Applications lacking sufficient information to determine eligibility and scoring will not be considered for funding.

(e) *No Duplication of Current Services:* Your application must demonstrate that you are providing services to new customers or new services to current customers.

(f) *Number of Applications:* You may only submit one application in response to this notice.

(g) *Collaboration, Contracts, and Subawards:* While the Agency supports collaboration between and among Centers, you must limit any contracts or subawards with other Centers to 10 percent or less of project costs. We consider collaboration to occurs when two or more Centers work jointly on an activity, but each Center controls its own budget for its involvement. Any collaboration with other Centers must be identified in the proposed Work Plan. The collaborators or contractors do not have to meet the eligibility requirements for the program. Only the applicant organization is required to meet the requirements.

D. Application and Submission Information

1. *Web Address to Access Application Package.*

The application template for applying for this funding opportunity is located at *https://www.rd.usda.gov/programs-services/agriculture-innovation-center-program.* Use of the application template is strongly recommended to assist you with the application process.

2. *Content and Form of Application Submission.*

(a) Submission. Your application must be submitted electronically through *Grants.gov*. Your application must contain all required information. You must follow the instructions for this funding announcement at *https://www.grants.gov/*. Note that the Agency cannot accept applications through mail or courier delivery, in-person delivery, email, or fax.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Assistance Listing Number (formerly Catalog of Federal Domestic Assistance Number) for this program.

When you enter the *Grants.gov* website, you will find information about applying electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a Unique Entity Identifier (UEI) number and you must also be registered and maintain registration in the System for Award Management (SAM). It is strongly recommended that you do not wait until the application deadline date to begin the application process through *Grants.gov* because it can take up to four weeks to complete the registration process. See section D 3 of this notice for additional information about SAM and the UEI.

You must submit all application documents electronically through *Grants.gov*. The Agency recommends attaching all files to the SF–424 form. Applications must include electronic signatures. Original signatures may be required if funds are awarded.

After applying electronically through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

(b) Required Information. Your application must contain the following required forms and other components. Note that an Application Template and Checklist are available on the program's website at: *https://www.rd.usda.gov/programs-services/agriculture-innovation-center-program*. Use of the template is strongly recommended, but not required.

(1) Title Page. Your application must contain a Title Page. It is recommended that your Title Page include a short title for your proposed project as well as contact information or other application identifying information.

(2) Table of Contents. Your application must contain a detailed Table of Contents (TOC). The TOC must include page numbers for each part of the application, including each evaluation criterion. Page numbers should begin immediately following the TOC.

(3) Executive Summary. A summary of the proposal, not to exceed one page, must briefly describe the Project, tasks to be completed, and other relevant information that provides a general overview of the Project.

(4) Goals of the Project. You must include a listing of each Producer Service to be offered during the project. The Agency recommends that you offer only services identified in section C.6 of this notice; other types of services may not be eligible for funding. You must also identify one or more specific goals relating to increasing and improving the ability of identified local Agricultural Producers to develop a market or process for Value-Added agricultural commodities or products. (See section C 3(a) of this notice for eligibility information related to this requirement.)

(5) Work Plan. You must include a description of your proposed work for the project, including how your project focuses on increasing and improving the ability of local Agricultural Producers to develop markets and processes for Value-Added Agricultural Products. This description must include the actions that will be taken in order for the Producer Services to be available from the Center. Each action should include a target date for completion. General start-up tasks should be listed, followed by specific tasks listed for each Producer Service to be offered. Tasks associated with the start-up of the Center should include a focused marketing and delivery plan directed at the local Agricultural Producers that were identified in the Goals section of your application. The actions to be taken should include steps for identifying customers, hiring key personnel (if not already hired), contracting for services for the Center, and making arrangements for strategic alliances. Each defined task needs to have a description, assigned key personnel, and an expected time frame for accomplishment. You must also clearly demonstrate how your project will provide services to new customers or provide new services to existing customers.

Note that the work you propose to accomplish must be allowable based on section C 3(b) of this notice. Funding restrictions are described in section D 5.

(6) Budget Justification. You must provide additional information regarding the budget you submit on the SF–424A, including your matching funds. This additional information must describe each category of expense and what specific costs are included in each category as well as how your Matching Funds will be used. For example, the Salaries justification must include the names of each staff member (not just key personnel) who will be paid and how much they will be paid. The Fringe Benefits category must include a description of how fringe benefits are calculated and what is included. The Contracts category must identify the contractors by name (if known) as well as the amounts expected for each contract and the purpose of each contract. The Other category must include the expected expenses (*e.g.,* supplies) that will be included. The Travel category must identify specific trips that will be taken, who will be traveling, and the reason for the travel. Additionally, if there are any unusual expenses, you should describe them and why they are appropriate for the award.

(7) Scoring Criteria. Each of the scoring criteria in this notice must be addressed in narrative form, with a maximum of three pages for each individual scoring criterion, unless otherwise specified. Failure to address each scoring criterion will result in the application being determined ineligible.

(8) Standard Form 424 (SF–424), ''Application for Federal Assistance.''

(9) Standard Form 424A (SF–424A), ''Budget Information-Non-Construction Programs.'' All sections of the form must be completed.

(10) Certification Regarding Outstanding Federal Judgments. You must certify that there are no current outstanding Federal judgments against your property and that you will not use grant funds to pay for any judgment obtained by the United States. You must also certify that you are not delinquent on the payment of Federal income taxes, or any Federal debt. To satisfy the Certification requirement, you must include this statement in your application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property, is not delinquent on the payment of Federal income taxes, or any Federal debt, and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required. (See section C1(b)(2) of this notice for information related to the eligibility of this requirement.)

(11) Certification on Lobbying. Your authorized representative must sign a certification which contains the entire statement from 2 CFR part 418, appendix A.

(12) Applicant Eligibility. You must verify your legal status and demonstrate your eligibility for the program as described below. (See section C 1(a)(1)

of this notice for information about eligibility related to this requirement.)

(i) Local Governments. Local Governments must provide the legal citation that authorizes their organization and attach a copy to the application.

(ii) State Governments. State governments must provide the legal citation that authorizes their organization and attach a copy to the application.

(iii) Indian Tribes. Indian Tribes must provide the legal citation that authorizes their tribe and attach a copy to the application.

(iv) Nonprofit Organizations. Nonprofit Organizations must attach the organization's Certificate of Good Standing (or the equivalent tribal documentation if incorporated under tribal law) and the Articles of Incorporation to the application.

(v) Commercial Organizations. Commercial Organizations must attach the organization's Certificate of Good Standing (or equivalent tribal documentation if incorporated under tribal law) and the Articles of Incorporation to the application.

(vi) Institutions of Higher Education. Institutions of Higher Education must demonstrate that you qualify as an Institution of Higher Education as defined at 20 U.S.C. 1001. The most common way to demonstrate this qualification is to provide the legal citation that authorizes the institution. A copy of the legal citation or other documentation must be attached to the application.

(13) Verification of Matching Funds. Matching funds must be provided for at least one-third of the total project cost. For example, if your total project cost is $1,500,000, you must provide at least $500,000 in matching funds. Matching funds can be provided in cash by the applicant organization or a third-party. They can also be provided in-kind by a third-party organization. You must verify the amount of funds to be contributed, the source of the funds, the availability of the funds, and the purpose for which the funds will be used. If a third-party is providing part or all of the matching funds, that third-party must provide a separate, signed verification. All verification must be done on an organization's letterhead and be signed by the organization's authorized representative. (See section C 2 of this notice for information about eligibility related to this requirement.)

(14) Governance Structure of the Center. The Center does not need to be an independent legal entity; however, it must be independently governed. You must provide an explanation of how the governance of the Center works (or will work if it hasn't been established at the time of application). In particular, you must address how the Center carries out personnel decisions, including hiring and firing employees and contractors; sets its policies and procedures, including personnel and procurement; develops and approves its budget; and selects its own Board of Directors. (See section C 1(a)(2) of this notice for information about eligibility related to this requirement.)

(15) Board of Directors. You must provide the following information. If your application is selected for funding, we will confirm the Board of Directors still meets the requirements. If at any time, the Center's Board of Directors does not meet the requirements during the period of performance, the award will either be suspended until the requirements can be met or the award will be terminated if the requirements can no longer be met. (See section C 1(a)(3) of this notice for information about eligibility related to this requirement.)

(i) General Agricultural Organizations. For the representatives from the two General Agricultural Organizations with the greatest number of members in your State, you must identify the representatives, the organizations, their purposes, and the number of members they have in your State. You must also explain how you determined that the organizations have the most (or second most) members. Acceptable sources for this information can include the state Department of Agriculture, or its equivalent, or a third-party, reliable source, such as a trade journal or university agriculture department. You must also submit a signed statement from each representative stating that they either are currently on the Center's Board of Directors or that they commit to being on the Center's Board of Directors during the proposed period of performance.

(ii) State Department of Agriculture or State Legislator. For the representative from the State Department of Agriculture (or equivalent) or State legislator, you must identify the representative and include the person's title and job responsibility if from the Department of Agriculture or identify the district the State legislator represents. You must also submit a signed statement from the representative stating that they either are currently on the Center's Board of Directors or that they commit to being on the Center's Board of Directors during the proposed period of performance.

(iii) Agricultural Commodity Organizations. For representatives from four Agricultural Commodity Organizations, you must identify each representative and the organization they represent. You must use data from the State Department of Agriculture, or its equivalent, to demonstrate that the commodities are produced in your state and provide a copy of the information used. You must also submit a signed statement from each representative stating that they either are currently on the Center's Board of Directors or that they commit to being on the Center's Board of Directors during the proposed period of performance.

(16) Existing Capability to Provide Services. The applicant organization must be able to demonstrate that it has the capability to provide the Producer Services proposed in its application. You must use one of the two options identified below. (See section C 1(a)(4) of this notice for information about eligibility related to this requirement.)

(i) Center-Provided Services. To demonstrate previously providing services, you must include a chart or narrative that describes the services provided during the last three to five years, as needed, to show that you can meet the requirement. The description must include the specific type of service provided, the role of the Center in providing the service, how many times it has been provided, and the outcomes of the services provided (preferably with quantitative measurements).

(ii) Key Personnel-Provided Services. If the Center does not have at least three years of experience providing Producer Services during the last five years, you must provide a chart or narrative that describes the key personnel's experience with providing Producer Services during the last three to five years, as needed, to show that you can meet the requirement. The narrative must include a description of the services provided, the role of the key personnel in providing the service, how many times it has been provided, and the outcomes of the services provided (preferably with quantitative measurements).

(17) Support of the Agricultural Community. You must include at least three letters of support from agricultural organizations, other than the applicant organization, that are relevant to the project. Evidence of support includes contributions of cash or in-kind matching funds. Other examples of support include referring clients and intent to collaborate. We will consider the support to be relevant if the organization is based in the State or region in which the project will take place and if the organization serves the same group of producers (either directly

or through commodity/marketing efforts) targeted by the proposed project. Note that support from organizations that are not agricultural in nature (such as local chambers of commerce) is not considered relevant for the purpose of meeting this requirement. (See section C 1(a)(5) of this notice for information about eligibility related to this requirement.)

(18) Strategic Coordination and Alliances. Describe arrangements in place or planned with end users (for example, processing and distribution companies and regional grocers) as well as with entities that have technical research capabilities, broad support from the agricultural community in the State or region, significant coordination with end users, strategic alliances with entities having technical research capabilities and a focused delivery plan for reaching out to the producer community.

(19) Financial Capability. You must include your most recent audit (including the Letter to the Managers). It is recommended that you include a calculation for your end-of-year current ratio as well as the amount of cash on hand and the end of the year. (See section C 1(a)(6) of this notice for information about eligibility related to this requirement.)

3. *System for Award Management and Unique Entity Identifier.*

(a) At the time of application, each applicant must have an active registration in the SAM before submitting its application in accordance with 2 CFR 25 (*https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-25*). In order to register in SAM, entities will be required to create a UEI. Instructions for obtaining the UEI are available at *https://sam.gov/content/entity-registration.*

(b) Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

(d) Applicants must provide a valid UEI in their applications, unless determined exempt under 2 CFR 25.110 (*https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-25/subpart-A/section-25.110*).

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

If you have not fully complied with all applicable UEI and SAM requirements, the Agency may determine that the applicant is not qualified to receive a Federal award and the Agency may use that determination as a basis for making an award to another applicant. Please refer to section F 2 for additional submission requirements that apply to grantees selected for this program.

4. *Submission Dates and Times.*

Applications must be received by *https://www.grants.gov/* by 11:59 Eastern Time March 6, 2023, to be eligible for funding. Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants.html* for instructions on the process of registering your organization as soon as possible to ensure you can meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

5. *Funding Restrictions.*

No funds made available under this solicitation shall be used to engage in the following activities. Note that the Agency will consider your application for funding if it includes unallowable costs of 10 percent or less of total grant funds requested, if it is determined eligible otherwise. However, if your application is successful, those unallowable costs must be removed. If time permits, the Agency may allow those unallowable costs to be replaced with allowable costs. Otherwise, the amount of the grant award will be reduced accordingly. If the Agency cannot determine the percentage of unallowable costs, your application will not be considered for funding.

(a) Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

(b) Purchase, rent, or install fixed equipment, including processing equipment;

(c) Purchase vehicles, including boats;

(d) Pay for the preparation of the grant application;

(e) Pay expenses not directly related to the funded project;

(f) Fund political or lobbying activities;

(g) Fund any activities considered unallowable by the applicable grant cost principles, including 2 CFR part 200, subpart E and the Federal Acquisition Regulation;

(h) Fund architectural work for a specific physical facility;

(i) Fund any direct expenses for the production of any commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility;

(j) Fund manufacturing or processing expenses, including testing expenses;

(k) Purchase land;

(l) Fund internships;

(m) Fund fellowships, scholarships, tuition remission, or any other type of compensation for students at any level of education;

(n) Duplicate current activities or activities paid for by another Federal grant program;

(o) Pay costs of the project incurred prior to the date of award approval;

(p) Pay for assistance to any private business enterprise that does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(q) Pay any judgment or debt owed to the United States;

(r) Pay for research and development; or

(s) Pay for any goods or services from a person who has a Conflict of Interest with the recipient.

(t) In addition, your application will not be considered for funding if it does any of the following:

(1) Requests less than the minimum or more than the maximum grant amount;

(2) Focuses assistance on only one agriculture producer or business;

(3) Proposes ineligible costs that equal more than 10 percent of total grant funds requested;

(4) Earns revenue from processing or selling a product as part of the project. Centers may charge fees for services provided, but they cannot earn revenue on actually processing a product or from sales associated with a product they helped develop; or

(5) Provides services to entities other than Agricultural Producers on behalf of and at the request of Agricultural Producers.

6. *Other Submission Requirements.*

RBCS also reserves the right to ask applicants for clarifying information and additional verification of assertions in the application.

E. Application Review Information

The Agency will review applications to determine eligibility for assistance based on requirements in this notice, and other applicable Federal laws and regulations. If the Agency determines that your application is eligible for

assistance, your application will be scored by a panel of USDA employees based on the Scoring Criteria specified in this notice. The highest scoring application will be funded up to the maximum amount available. Additional applications that cannot be fully funded may be offered partial funding at the Agency's discretion.

1. *Scoring Criteria.* All eligible and complete applications will be evaluated based on the following criteria. Evaluators will base scores only on the information provided in the application. This is a competitive program, so you will receive scores based on the quality of the information provided. Simply addressing the criteria will not guarantee higher scores. The total points possible for the criteria are 80.

(a) Ability to Deliver (maximum score of 15 points). The application will be evaluated as to whether it evidences unique abilities to deliver Producer Services so as to create sustainable Value-Added ventures. Abilities that are transferable to a wide range of agricultural Value-Added commodities are preferred over highly specialized skills. Strong skills must be accompanied by a credible and thoughtful plan. Points will be awarded as follows:

(1) 0 points will be awarded if you do not substantively address the criterion.

(2) 1–4 points will be awarded for unique abilities, that is, abilities that are not available through other organizations in the Center's service area.

(3) 1–4 points will be awarded for the expected sustainability of the Value-Added ventures supported by the project. For example, applications that propose to work with ventures where the expected sustainability has been assessed will receive more points than applications that do not address expected sustainability. Sustainability refers to the wealth generated by the assisted venture (*e.g.,* if the project adds retained earnings to the balance sheet, not just an increase in cash flow).

(4) 1–4 points will be awarded for the transferability of the abilities identified. Abilities that are transferable to a wide range of commodities will receive more points.

(5) 1–3 points will be awarded for plans to accomplish work that are thoughtful and seem reasonable. For example, will the services provided match the stated goals (from section D 2(b)(iv)? Are the results measurable and attainable within the proposed project period?

(b) Successful Track Record (maximum score of 15 points). The applicant organization's track record in achieving Value-Added successes will be evaluated. Points will be awarded as follows:

(1) 0 points will be awarded if you do not substantively address the criterion.

(2) 1–3 points will be awarded if the applicant has more than three years of experience in accomplishing Value-Added successes. More points will be given for more years of experience, based on the distribution of what all eligible applicants submit. No credit will be given for activities that did not directly result in a Value-Added success. Note that success may include working with an organization and providing coaching to indicate that the proposed venture is not feasible.

(3) 1–4 points will be awarded based on the number of Value-Added successes. More points will be given for higher numbers, based on the distribution of what eligible applicants submit.

(4) 1–4 points will be awarded based on the significance of Value-Added successes. More points will be given for more significant successes, based on the distribution of what eligible applicants submit.

(5) 1–4 points will be awarded based on the complexity of the role that the applicant organization played in the Value-Added successes.

(c) Work Plan/Budget (maximum of 15 points). The Agency will review the work plan for detailed actions and an accompanying timetable for implementing the proposed work. The Agency will review budgets for completeness and the strength of non-Federal funding commitments. Note that there is no additional information required for this criterion. The Agency will use the Work Plan and Budget Justification for our evaluation. Points will be awarded as follows:

(1) 0 points will be awarded if you do not substantively address this criterion.

(2) 1–6 points will be awarded for work plans that describe each task, including objectives and potential outcomes, and how that task connects to the goal of the project. More points will be awarded for work plans that completely describe tasks and show measurable outcomes as well as for work plans that show a cohesive plan for the achievement of the goal(s) of the project.

(3) 1–3 points will be awarded for work plans that show a reasonable and differentiated timetable for the proposed tasks. For example, a work plan that shows a schedule for how a Center will begin operation, then market its services, and then provide its services would be awarded more points than a work plan that simply states all Producer Services will be offered for 12 months. The Agency will also consider how you will identify customers. Applications with a specific description of customer identification will receive more points.

(4) 1–3 points will be awarded for the budget justification. More points will be awarded for justifications that completely describe all categories of cost, including indirect costs. A complete description includes identification of key personnel (including any contractors) and the salaries and fringe benefits associated with their time on the project as well as identification of all travel events (including who will be traveling and what the purpose of the trip is), individual contract amounts and purposes, and items that are categorized, such as computers, printers, scanners, copiers, and other office items.

(5) 1–3 points will be awarded for higher quality matching funds. A cash match is of a higher quality than in-kind. Thus, the Agency will award more points to applications that have a larger percentage of matching funds coming from cash, based on the distribution of what is submitted by applicants.

(d) Qualifications of Key Personnel (maximum of 15 points). Describe the qualifications of the key personnel for the project. Key personnel may include employees of the Center or consultants/contractors, but they do not include administrative or financial staff whose purpose is to support the administrative requirements of the award. Your description should include the number of years of experience that a person has doing the type of work that will be assigned during the project as well as metrics indicating the number of times the person has provided the assistance and the outcomes of that assistance. You must also include the total hours that will be contributed to the project by each person. Points will be awarded as follows:

(1) 0 points will be awarded if you do not adequately address this criterion.

(2) 1–5 points based on the percentage of work that will be carried out by Center employees. The Agency will calculate the percentage by adding the hours of the key personnel and dividing the number of hours from Center employees by the total hours.

(i) 1 point for 10–20% of the work carried out by Center employees;

(ii) 2 points for 21–40% of the work carried out by Center employees;

(iii) 3 points for 41–60% of the work carried out by Center employees;

(iv) 4 points for 61–80% of the work carried out by Center employees; and

(v) 5 points for 81–100% of the work carried out by Center employees.

(3) 1–10 points based on the qualifications of the key personnel. More points will be awarded in cases where the key personnel are assigned to specific tasks that match their experience and skills.

(e) Local support (maximum of 5 points). You must show that the Center has local support from and coordination with other developmental organizations in the proposed service area and with Tribal, State, and local institutions. Support documentation should include recognition of rural values that balance employment opportunities with environmental stewardship and other rural amenities. You may submit a maximum of 4 letters of support for this criterion (or you may reference other letters submitted with the application). When awarding points for this criterion, the Agency will only consider support letters from developmental organizations in the proposed service area, and State and local institutions. Additionally, identical form letters signed by multiple organizations will not be included in the count of support letters received. Support letters must be included as an attachment to the application. Points will be awarded as follows:

(1) 0 points are awarded if you do not adequately address this criterion or if you do not provide at least three letters of support.

(2) 1 point will be awarded for a support letter from a developmental organization in the proposed service area that shows coordination with your project.

(3) 1 point will be awarded for a support letter from a State institution.

(4) 1 point will be awarded for a support letter from a Tribal institution.

(5) 1 point will be awarded for a support letter from a local institution.

(6) 1 point will be awarded for support that includes recognition of rural values that balance employment opportunities with environmental stewardship and other rural amenities.

(f) Future support (maximum of 15 points). Describe the vision for funding Center operations for future years, including diversification of funding sources and building in-house technical assistance capacity. Points will be awarded as follows:

(1) 0 points will be awarded if you do not substantively address the criterion.

(2) 1–5 points will be awarded for applications that describe a specific plan for obtaining future funding for the Center. More points will be awarded for plans that show concrete actions for at least 3 years into the future.

(3) 1–5 points will be awarded for applications that show a diversification of funding sources. Possible funding sources include Federal awards, Tribal, State and local awards, private donations, and pay-for-service plans. More points will be awarded for plans that include multiple, committed funding sources. You may summarize the funding sources/support in a chart or narrative, and you must include the following information for each source: name of the organization, the amount of funds committed, the expected time period for commitment, and the purpose for which the funds can be used.

(4) 1–5 points will be awarded for applications that show how in-house capacity for providing technical assistance will be improved. More points will be awarded for Centers that have a specific plan for training and hiring in-house technical assistance experts.

2. *Review and Selection Process.*

The Agency will review applications to determine if they are eligible for assistance based on requirements in this notice, and other applicable Federal laws and regulations. If the agency determines that your application meets the requirements, it will be scored by a panel of USDA employees in accordance with the Scoring Criteria and point allocation specified in this notice. The review panel will convene to reach a consensus on the scores for each of the eligible applications. Applications will be ranked solely based on the points awarded, and they will be funded in rank order until available funds are expended or a minimum score of 40 points is reached. If an application cannot be fully funded, the Agency will offer partial funding to the extent funds are available. If the applicant offered partial funding does not accept, the Agency will offer the funding to the next highest-ranked applicant until the Agency finds an applicant that accepts the funding or no additional eligible applicants exist.

If your application is ranked and not funded, it will not be carried forward into the next competition.

F. Federal Award Administration Information

1. *Federal Award Notices.*

Successful Applications will receive a signed Letter of Conditions containing instructions on requirements necessary to proceed with execution and performance of the award. If you are able to meet the conditions of the award within the specified time frame (typically up to 90 calendar days), the Agency will proceed with approving an award. If you are not able to meet the conditions of the award, the Agency may terminate consideration of your application at its discretion and choose to award the funds to the next highest-ranked applicant. Unsuccessful Applications will be notified in writing and informed of any review and appeal rights. Funding of successfully appealed applications will be limited to the funding available in this notice.

2. *Administrative and National Policy Requirements.* Additional requirements that apply to grantees selected for this program include, but are not limited to, 2 CFR parts 200, 400, 415, 417, 418, and 421.

(a) Requirements for All Recipients. All recipients of Federal financial assistance are required to do the following:

(1) Report information about first-tier subawards and executive compensation (See 2 CFR part 170).

(2) Have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act reporting requirements (See 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)). These regulations may be obtained at: the following link: *https://ecfr.io/.*

(b) Requirements for Program Recipients. Applicants whose applications are selected for funding through this program will be required to execute the following additional documentation:

(1) Form RD 4280–2, ''Rural Business-Cooperative Service Financial Assistance Agreement.''

(2) Form RD 1940–1, ''Request for Obligation of Funds,'' if funds must be obligated prior to the execution of Form RD 4280–2.

(3) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(4) Form RD 400–4, ''Assurance Agreement.'' By signing Form 400–4, Assurance Agreement, recipients affirm that they will operate the program free from discrimination. The recipient will maintain the race and ethnic data on the board members and beneficiaries of the program. The Recipient will provide alternative forms of communication to persons with limited English proficiency. The Agency will conduct Civil Rights Compliance Reviews on recipients to identify the collection of racial and ethnic data on program beneficiaries. In addition, the compliance review will ensure that equal access to the program benefits and activities are provided for persons with disabilities and language barriers.

(5) SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

(6) Certification of Lobbying. Your authorized representative must sign a certification which contains the entire statement from 2 CFR part 418, appendix A.

(c) Reporting. After award approval, you will be required to provide the following:

(1) Semi-Annual Reports. A SF–425, ''Federal Financial Report,'' and a project performance report will be required on a semi-annual basis The project performance reports shall include the following information:

(i) A comparison of actual accomplishments to the objectives established for that period;

(ii) Reasons why established objectives were not met, if applicable; and

(iii) Reasons for any problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation.

(iv) Objectives and a timetable established for the next reporting period.

(2) Final Reports. A SF–425, ''Federal Financial Report,'' and a project performance report will be required within 120 calendar days after the expiration or termination of the award.

(3) Deliverables. Provide deliverables as described in Form RD 4280–2, Attachment B, ''Approved Work Plan and Budget.''

G. Agency Contacts

For general questions about this announcement and for program Technical Assistance, please contact National Office staff: Gail Thuner, Management and Program Analyst, *SM.RBCS.AIC@usda.gov,* or call 202–720–1400.

H. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act, the paperwork burden associated with this notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0045.

2. *National Environmental Policy Act.* All recipients under this notice are subject to the requirements of 7 CFR part 1970. However, awards for financial and technical assistance under this notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation. The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

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

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the 711 Relay Service.

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

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

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

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

USDA is an equal opportunity provider, employer, and lender.

Karama Neal,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2022–26370 Filed 12–2–22; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–33–2022]

Production Activity Not Authorized; Foreign-Trade Zone (FTZ) 186—Waterville, Maine; Flemish Master Weavers (Machine-Made Woven Area Rugs); Sanford, Maine

On August 2, 2022, the City of Waterville, Maine, grantee of FTZ 186, submitted a notification of proposed production activity to the FTZ Board on behalf of Flemish Master Weavers, within Subzone 186A, in Sanford, Maine.

The notification was processed in accordance with section 400.37 of the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (87 FR 48149, August 8, 2022). On November 30, 2022, the applicant was notified of the FTZ Board's decision that further review of the activity is warranted. The production activity described in the notification was not authorized. For the applicant to continue seeking authorization for this activity, it would need to submit an application for production authority in conformity with section 400.23 of the FTZ Board's regulations.

Dated: November 30, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–26365 Filed 12–2–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–210–2022]

Foreign-Trade Zone 196—Fort Worth, Texas; Application for Expansion of Subzone 196A; TTI, Inc.; Fort Worth, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Alliance Corridor, Inc., grantee of FTZ 196, requesting an expansion of Subzone 196A on behalf of TTI, Inc. The application was submitted pursuant to the provisions of the Foreign-Trade

Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 30, 2022.

Subzone 196A currently consists of the following sites: Site 1 (13 acres)—2701 Sylvania Cross Drive, Fort Worth; Site 2 (14.419 acres)—2441 Northeast Parkway, Fort Worth; Site 5 (45.843 acres)—3737 Meacham Boulevard, Fort Worth; and, Site 6 (3.6 acres)—5050 Mark IV Parkway, Fort Worth.

The applicant is requesting authority to expand the subzone to include an additional site: Proposed Site 7 (17.96 acres)—4501 North Freeway, Fort Worth. The existing subzone and the proposed site would be subject to the existing activation limit of FTZ 196. No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is January 17, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 30, 2023.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov.*

Dated: November 30, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–26366 Filed 12–2–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary 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) preliminarily determines that circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea) was sold at prices below normal value for Husteel Co., Ltd. (Husteel) and not sold at prices below normal value for Nexteel Co., Ltd. (Nexteel) during the period of review (POR) November 1, 2020, through October 31, 2021. We invite interested parties to comment on these preliminary results.

DATES: Applicable December 5, 2022.

FOR FURTHER INFORMATION CONTACT: Dusten Hom and Byeong-hun You, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5075 and (202)–482–1018, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on CWP from Korea, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[1] On December 28, 2021, in accordance with 19 CFR 351.221(c)(1)(i), we initiated the administrative review[2] of the *Order* covering 24 producers and/or exporters, including mandatory respondents, Husteel and Nexteel.[3] The remaining companies were not selected for individual examination and remain subject to this administrative review. For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4]

On July 14, 2022, Commerce extended the time limit for issuing the preliminary results of this review by 120 days, to no later than November 30, 2022.[5]

Scope of the Order

The merchandise subject to the *Order* is CWP from Korea. A full description of the scope, *see* the Preliminary Decision Memorandum.[6]

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary 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). ACESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Rate for Non-Selected Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual 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. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we have preliminarily calculated weighted-average dumping margins of 13.72 percent for Husteel and 0.00 percent for Nexteel. For the companies that were not selected for individual review, we preliminarily assigned a rate based on the rates for the respondents that were selected for

[1] *See Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea,* 57 FR 49453 (November 2, 1992) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 73734 (December 28, 2021).

[3] *See* Memorandum, ''Antidumping Duty Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Respondent Selection,'' dated February 2, 2022.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* Memorandum, ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Extension of Deadline for Preliminary Results of 2019–2020 Antidumping Administrative Review,'' dated July 14, 2022.

[6] For a full description of the scope of the *Order, see* Preliminary Decision Memorandum.

individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available.[7] In accordance with the U.S. Court of Appeals for the Federal Circuit's decision in *Albemarle,* we are applying to the twenty-two companies that had reviewable transactions during the POR the 13.72 percent rate calculated for Husteel.[8] This is the only rate determined in this review that is not zero, *de minimis,* or based entirely on facts available for individual respondents and, thus, should be applied to the twenty-two firms not selected for individual review under section 735(c)(5)(B) of the Act.

Preliminary Results of the Administrative Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the administrative review covering the period November 1, 2020, through October 31, 2021:

Producer/exporter	Weighted-average dumping margin (percent)
Husteel Co., Ltd	13.72
NEXTEEL Co., Ltd	0.00 (*de minimis*).
Review-Specific Average Rate Applicable to the Following Companies	
Other Respondents[9] ...	13.72

Disclosure

We intend to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[10] Commerce modified certain of its requirements for serving documents containing business proprietary information until further notice.[11] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed request for a hearing must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[13] Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Issues raised in the hearing will be limited to those raised in the briefs.

Unless the deadline is extended, Commerce intends to issue the final results of this review, including the results of its analysis of issues raised by parties in their comments, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

Upon issuing the final results, Commerce will determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. If an examined respondent's weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined U.S. sales and, where possible, the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[14] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), 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.

For entries of subject merchandise during the POR produced by Husteel or Nexteel for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[15]

For the companies that were not selected for individual examination, we will instruct CBP to assess antidumping duties at an *ad valorem* rate equal to each company's weighted-average dumping margin determined in the final results of this review.

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 deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of administrative review for all shipments of CWP from Korea 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 the rates established in the final results of this administrative 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 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 is, then the cash deposit rate will be the rate established 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 4.80 percent,[16] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed,

[7] *See* section 735(c)(5)(A) of the Act.

[8] *See Albemarle Corp.* v. *United States,* 821 F.3d 1345 (Fed. Cir. 2016) (*Albemarle*).

[9] *See* Appendix II for a full list of these companies.

[10] *See* 19 CFR 351.309(d).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[12] *See* 19 CFR 351.309(c)(2) and (d)(2).

[13] *See* 19 CFR 351.310(c); *see also* 19 CFR 351.303(b)(1).

[14] *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).

[15] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[16] *See Order.*

shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary 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 POR. 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.

Notification to Interested Parties

Commerce is issuing and publishing the preliminary results of this review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(4).

Dated: November 29, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision

Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Rate for Non-Selected Companies
V. Affiliation
VI. Discussion of the Methodology
VII. Export Price and Constructed Export Price
VIII. Normal Value
IX. Currency Conversion
X. Recommendation

Appendix II—List of Companies Not Individually Examined

1. Aju Besteel
2. Bookook Steel
3. Chang Won Bending
4. Dae Ryung
5. Daewoo Shipbuilding & Marine Engineering (Dsme)
6. Daiduck Piping
7. Dong Yang Steel Pipe
8. Dongbu Steel [17]
9. Eew Korea Company
10. Histeel [18]
11. Hyundai Rb
12. Hyundai Steel Company [19]
13. Kiduck Industries
14. Kum Kang Kind
15. Kumsoo Connecting
16. Miju Steel Mfg.[20]
17. Samkang M&T
18. Seah Fs
19. Seah Steel [21]
20. Steel Flower
21. Vesta Co., Ltd.
22. Ycp Co.

[17] This company is also known as Dongbu Steel Co., Ltd.

[18] This company is also known as HiSteel Co., Ltd.

[19] This company is also known as Hyundai Steel Corporation; Hyundai Steel; and Hyundai Steel (Pipe Division).

[20] This company is also known as Miju Steel Manufacturing.

[21] This company is also known as Seah Steel Corporation.

[FR Doc. 2022–26403 Filed 12–2–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The U.S. Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with October anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable December 5, 2022.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with October anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

With respect to antidumping administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than October 31, 2023.

	Period to be reviewed
AD Proceedings	
India: Stainless Steel Flanges, A–533–877	10/1/21–9/30/22
Balkrishna Steel Forge Pvt Ltd	
BFN Forgings Private Limited (formerly Bebitz Flanges Works Pvt. Ltd.) [5]	
Chandan Steel Limited	
Echjay Forgings Private Limited	
Fivebros Pvt Ltd	
Goodluck India Limited	
Hilton Metal Forgings Limited	
Jai Auto Pvt. Ltd.	
Jay Jagdamba Forgings Pvt Ltd	
Jay Jagdamba Ltd	
Jay Jagdamba Profile Pvt Ltd	
Kisaan Die Tech Pvt Ltd	
Pradeep Metals Limited	
R.N. Gupta & Company Limited	
Shree Jay Jagdamba Flanges Pvt Ltd	
Japan: Certain Hot-Rolled Steel Flat Products, A–588–874	10/1/21–9/30/22
JFE Shoji Corporation; JFE Steel Corporation	
Nippon Steel & Sumikin Bussan Corporation	
Nippon Steel & Sumitomo Metal Corporation	
Nippon Steel & Sumikin Logistics Co., Ltd.	
Nippon Steel Corporation; Nippon Steel Nisshin Co., Ltd.; Nippon Steel Trading Corporation (formerly Nippon Steel & Sumikin Bussan Corporation)	
Tokyo Steel Manufacturing Co., Ltd.	
Mexico: Carbon and Certain Alloy Steel Wire Rod, A–201–830	10/1/21–9/30/22
ArcelorMittal Mexico S.A. de C.V.	
Deacero S.A.P.I. de C.V.	
Grupo Villacero S.A. de C.V.	
Talleres y Aceros S.A. de C.V.	
Ternium Mexico S.A. de C.V	
Mexico: Refillable Stainless Steel Kegs, A–201–849	10/1/21–9/30/22
Cerveceria Bajamuri S. de R.L. de C.V.	
Cerveceria Cuauhtemoc Moctezuma S.A. de C.V	
Compañía Cervecera de Coahuila, S. de R.L. de C.V.	
Compania Cervecera del Tropico S.A. de C.V.	
Thielmann Mexico S.A. de C.V.	
Republic of Korea: Certain Hot-Rolled Steel Flat Products, A–580–883	10/1/21–9/30/22
Aekyung Chemical	
AJU Besteel Co., Ltd.	
Ameri Source Korea	
Chemaven Co., Ltd.	
Cj Cheiljedang Corp.	
Cj Global Logistics Service Inc.	
Dongkuk Industries Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
Geco Industries Co., Ltd.	
Geumok Tech. Co., Ltd.	
Goi Tech Industries Co., Ltd.	
Golden State Corporation	
Gs Global Corp.	
Gs Holdings Corp.	
Hanawell Co., Ltd.	
Hanjin Gls Co., Ltd.	
Hankook Co., Ltd.	
HISTEEL	
Hyosung Corporation	
Hyosung Tnc Corporation	
Hyundai Glovis Co., Ltd.	
Hyundai Rb Co., Ltd.	
Hyundai Steel Company	
Il Jin Nts Co., Ltd.	
Inchang Electronics Co., Ltd.	
J&K Korea Co., Ltd.	
Jeil Industries Co., Ltd.	
Jeil Metal Co., Ltd.	
Jin Young Metal	
Jun Il Co., Ltd.	

	Period to be reviewed
KG Dongbu Steel Co., Ltd.	
KG Steel Corporation	
Kumkang Kind Co., Ltd.	
Lg Electronics Inc.	
Maxflex Corp.	
Mitsubishi Corp. Korea	
Mitsui Chemicals & Skc Polyurethane	
Nexteel Co., Ltd.	
POSCO and POSCO International Corporation [6]	
Samsung Electronics Co., Ltd.	
SeAH Steel Corporation	
Sja Inc. (Korea)	
Solvay Silica Korea	
Soon Ho Co., Ltd.	
Sumitomo Corp. Korea Ltd.	
Sungjin Precision	
Wintec Korea Inc.	
Wonbangtech Co., Ltd.	
The Netherlands: Certain Hot-Rolled Steel Flat Products, A–421–813	10/1/21–9/30/22
Tata Steel Ijmuiden B.V.	
The People's Republic of China: Boltless Steel Shelving Units Prepackaged For Sale, A–570–018	10/1/21–9/30/22
Changshu Jiamei Metal Products Co., Ltd.	
Fuzhou Rongyu Technology Co., Ltd.	
Haifa (Ningbo) Office Equipment Co., Ltd.	
HoiFat (Ningbo) Office Facilities Co., Ltd.	
Lianfa Metal Product Co., Ltd	
Lyon (Xiamen) Co.	
Nanjing Dongsheng Shelf Mfg.	
Ningbo Decko Metal Products Trade	
Ningbo ETDZ Huixing Trade Co., Ltd.	
Ningbo Ftz Firebird Imp.&Exp.	
Ningbo Xinguang Rack Co., Ltd.	
Ninghai Firebird Imp.&Exp.	
Pronto Great China Corp.	
Shenzhen Catch Technology	
Shenzhen Yi Chen Technology Ltd.	
Shenzhenshi Fengzhiyi Technology	
Zhejiang Limai Metal Products Co	
Zhejiang Rudi Furniture	
The People's Republic of China: Electrolytic Manganese Dioxide, A–570–919	10/1/21–9/30/22
Duracell (China) Limited	
CVD Proceedings	
India: Stainless Steel Flanges, C–533–878	1/1/21–12/31/21
BFN Forgings Private Limited	
Chandan Steel Limited	
Hilton Metal Forgings Limited	
Pradeep Metals Limited, India	
Republic of Korea: Certain Hot-Rolled Steel Flat Products, C–580–884	1/1/21–12/31/21
DCE Inc.	
Dong Chuel America Inc.	
Dong Chuel Industrial Co., Ltd.	
Dongbu Incheon Steel Co., Ltd.	
Dongbu Steel Co., Ltd.	
Dongkuk Industries Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
Hyewon Sni Corporation (H.S.I.)	
Hyundai Steel Company [7]	
JFE Shoji Trade Korea Ltd.	
POSCO	
POSCO Coated & Color Steel Co., Ltd.	
POSCO Daewoo Corporation	
POSCO International Corporation	
Soon Hong Trading Co., Ltd.	
Sung-A Steel Co., Ltd.	

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[8] available at *www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[9]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[10] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[11] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: November 30, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–26404 Filed 12–2–22; 8:45 am]

BILLING CODE 3510–DS–P

[5] BFN Forgings Private Limited (formerly Bebitz Flanges Works Pvt. Ltd.) is part of a collapsed entity with the following companies: Viraj Impoexpo, Ltd.; Bebitz USA, Inc. (Bebitz USA); Flanschen werk Bebitz GmbH (FBG); Viraj Alloys, Ltd.; Viraj Forgings, Ltd.; Viraj Profiles Limited (Viraj); and Viraj USA, Inc. (Viraj USA). *See e.g., Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination,* 83 FR 40745 (August 16, 2018).

[6] Commerce previously treated POSCO and POSCO International Corporation as a single entity. *See Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 59985 (October 29, 2021), and accompanying Preliminary Decision Memorandum, at 6–13, unchanged in *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2019–2020,* 87 FR 12660 (March 7, 2022).

[7] This company may also be referred to as ''Hyundai Steel Co., Ltd.''

[8] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[9] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[10] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[11] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–026]

Corrosion-Resistant Steel Products From the People's Republic of China: Final Results of the 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 Metalco S.A. (Metalco), the sole company subject to the 2020–2021 administrative review of the antidumping duty order on corrosion-resistant steel products from the People's Republic of China (China), is part of the China-wide entity because it did not demonstrate its eligibility for a separate rate. The period of review (POR) is July 1, 2020, through June 30, 2021.

DATES: Applicable December 5, 2022.

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

SUPPLEMENTARY INFORMATION

Background

On August 4, 2022, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register**.[1] Commerce invited interested parties to comment on the *Preliminary Results;* however, no interested parties submitted comments. Accordingly, Commerce made no changes to the *Preliminary Results.* Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order[2]

The products covered by this *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this *Order* are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

2.50 percent of manganese, or
3.30 percent of silicon, or
1.50 percent of copper, or
1.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
2.00 percent of nickel, or
0.30 percent of tungsten (also called wolfram), or
0.80 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or
0.30 percent of vanadium, or
0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the *Order* if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this *Order* unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this *Order:*

Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin free steel''), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;

Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and

Certain clad stainless flat-rolled products, which are three-layered

[1] *See Corrosion-Resistant Steel Products from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021,* 87 FR 47714 (August 4, 2022) (*Preliminary Results*).

[2] *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016) (*Order*), as corrected by *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Notice of Correction to the Antidumping Duty Orders,* 81 FR 58475 (August 25, 2016) (where Commerce modified the *Order* to correct unintended errors regarding the estimated weight-average dumping margins for China and the date that the extended period of provisional measures expired).

corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20 percent-60 percent-20 percent ratio.

The products subject to the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the *Order* may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.

Final Results of Review

Because Commerce received no comments, we made no changes from the *Preliminary Results.* As a result, Commerce continues to find that Metalco, the sole company subject to this administrative review, has not demonstrated its eligibility for separate rate status because it did not file a no-shipment certification or a separate rate application.[3] Therefore, Commerce determines that Metalco is part of the China-wide entity.[4] In this administrative review, no party requested a review of the China-wide entity, and Commerce did not self-initiate a review of the China-wide entity. Because no review of the China-wide entity is being conducted, the China-wide entity's entries are not subject to this review, and the rate applicable to the China-wide entity was not subject to change as a result of this administrative review. The China-wide entity rate remains 199.43 percent.[5]

[3] *See Preliminary Results,* 87 FR at 47715 (''Preliminary Results of Review'').

[4] *Id.*

[5] *See Order.*

Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in accordance with 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Because Commerce determined that Metalco is not eligible for a separate rate and is part of the China-wide entity, Commerce will instruct CBP to apply an *ad valorem* assessment rate of 199.43 percent to all POR entries of subject merchandise that were exported by Metalco.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results 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 of this notice in the **Federal Register**).

Cash Deposit Requirements

The following cash deposit requirements 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) for previously investigated or reviewed Chinese or non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity (*i.e.,* 199.43 percent); and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These 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 POR. 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 final 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 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

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: November 25, 2022.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–26406 Filed 12–2–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–871, A–475–835, A–469–815, C–533–872]

Finished Carbon Steel Flanges From India, Italy, and Spain: Continuation of Antidumping Duty Orders and Countervailing Duty Order

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

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) orders on finished carbon steel flanges (flanges) from India, Italy, and Spain and countervailing duty (CVD) order on flanges from India would likely lead to continuation or recurrence of dumping, net countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable November 30, 2022.

FOR FURTHER INFORMATION CONTACT: James Hepburn or Emily Bradshaw, 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) 482–1882 or (202) 482–3896, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 2017, Commerce published in the **Federal Register** the AD order on flanges from Spain, and on August 24, 2017, Commerce published in the **Federal Register** the AD orders on flanges from India and Italy and the CVD order on flanges from India.[1] On May 2, 2022, the ITC instituted,[2] and Commerce initiated,[3] the first sunset review of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins of dumping and net countervailable subsidy rates likely to prevail should the *Orders* be revoked.[4]

On November 21, 2022, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Orders

The scope of the *Orders* covers finished carbon steel flanges. Finished carbon steel flanges differ from unfinished carbon steel flanges (also known as carbon steel flange forgings) in that they have undergone further processing after forging, including, but not limited to, beveling, bore threading, center or step boring, face machining, taper boring, machining ends or surfaces, drilling bolt holes, and/or de-burring or shot blasting. Any one of these post-forging processes suffices to render the forging into a finished carbon steel flange for purposes of the *Orders.* However, mere heat treatment of a carbon steel flange forging (without any other further processing after forging) does not render the forging into a finished carbon steel flange for purposes of the *Orders.*

While these finished carbon steel flanges are generally manufactured to specification ASME B16.5 or ASME B16.47 series A or series B, the scope is not limited to flanges produced under those specifications. All types of finished carbon steel flanges are included in the scope regardless of pipe size (which may or may not be expressed in inches of nominal pipe size), pressure class (usually, but not necessarily, expressed in pounds of pressure, *e.g.,* 150, 300, 400, 600, 900, 1500, 2500, *etc.*), type of face (*e.g.,* flat face, full face, raised face, *etc.*), configuration (*e.g.,* weld neck, slip on, socket weld, lap joint, threaded, *etc.*), wall thickness (usually, but not necessarily, expressed in inches), normalization, or whether or not heat treated. These carbon steel flanges either meet or exceed the requirements of the ASTM A105, ASTM A694, ASTM A181, ASTM A350 and ASTM A707 standards (or comparable foreign specifications). The scope includes any flanges produced to the above-referenced ASTM standards as currently stated or as may be amended. The term ''carbon steel'' under this scope is steel in which:

(a) Iron predominates, by weight, over each of the other contained elements:

(b) The carbon content is 2 percent or less, by weight; and

(c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 0.87 percent of aluminum;
(ii) 0.0105 percent of boron;
(iii) 10.10 percent of chromium;
(iv) 1.55 percent of columbium;
(v) 3.10 percent of copper;
(vi) 0.38 percent of lead;
(vii) 3.04 percent of manganese;
(viii) 2.05 percent of molybdenum;
(ix) 20.15 percent of nickel;
(x) 1.55 percent of niobium;
(xi) 0.20 percent of nitrogen;
(xii) 0.21 percent of phosphorus;
(xiii) 3.10 percent of silicon;
(xiv) 0.21 percent of sulfur;
(xv) 1.05 percent of titanium;
(xvi) 4.06 percent of tungsten;
(xvii) 0.53 percent of vanadium; or
(xviii) 0.015 percent of zirconium.

Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. The HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, net countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders.* U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be November 30, 2022. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply with the regulations and terms of the APO is a sanctionable violation.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: November 29, 2022.

Lisa Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–26401 Filed 12–2–22; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Finished Carbon Steel Flanges from Spain: Antidumping Duty Order,* 82 FR 27229 (June 14, 2017); *Finished Carbon Steel Flanges from India and Italy: Antidumping Duty Orders,* 82 FR 40136 (August 24, 2017); and *Finished Carbon Steel Flanges from India: Countervailing Duty Order,* 82 FR 40138 (August 24, 2017) (collectively, *Orders*).

[2] *See Finished Carbon Steel Flanges from India, Italy, and Spain; Institution of Five-Year Reviews,* 87 FR 25662 (May 2, 2022).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 87 FR 25617, 25618 (May 2, 2022).

[4] *See Finished Carbon Steel Flanges from India, Italy, and Spain: Final Results of the Expedited First Sunset Review of the Antidumping Duty Orders,* 87 FR 52910 (August 30, 2022), and accompanying Issues and Decision Memorandum (IDM); and *Finished Carbon Steel Flanges from India: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order,* 87 FR 53722 (September 1, 2022), and accompanying IDM.

[5] *See Finished Carbon Steel Flanges from India, Italy, and Spain,* 87 FR 70866 (November 21, 2022).

DEPARTMENT OF DEFENSE

Office of the Secretary

National Security Education Board (NSEB); Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the NSEB will take place.

DATES: Open to the public on Thursday, December 15, 2022, from 9:00 a.m. Eastern Standard Time (EST) to 1:00 p.m. EST.

ADDRESSES: The meeting will be held at 1350 Eye Street NW, Washington, DC 22205.

FOR FURTHER INFORMATION CONTACT: Ms. Alison Patz, (571) 329–3894 (Voice), *alison.m.patz.civ@mail.mil* (Email). Mailing address is National Security Education Program, 4800 Mark Center Drive, Suite 08F09–02, Alexandria, VA 22350–7000. Website: *https://dlnseo.org/Governance/NSEB.*

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the DoD and the Designated Federal Officer, the NSEB was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its December 15, 2022 meeting of the NSEB. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review and make recommendations to the Secretary of Defense concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

Agenda: 9:00 a.m. EST—NSEB Full Meeting Begins.

9:15 a.m. EST—National Security Education Program (NSEP) Statutory Resonsibilities.

9:45 a.m. EST—30 Years of NSEP: Programs Retrospective.

11:15 a.m. EST—Break.

11:30 a.m. EST—Senior Stakeholders Perspectives.

12:15 p.m. EST—Lunch.

1:00 p.m. EST—Board Discussion.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to the availability of space.

Written Statements: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150. Pursuant to 102–3.140 and sections 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the DoD NSEB about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of the planned meeting. All written statements shall be submitted to the point of contact at the email address or phone number listed in the **FOR FURTHER INFORMATION CONTACT** section, and this individual will ensure that the written statements are provided to the membership for their consideration. Statements being submitted in response to the agenda items mentioned in this notice must be received by the point of contact listed in the **FOR FURTHER INFORMATION CONTACT** section at least five calendar days prior to the meeting that is the subject of this notice. Written statements received after this date may not be provided to or considered by the NSEB until its next meeting.

Dated: November 30, 2022.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–26405 Filed 12–2–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board

Solicitation of Public Comments for Updating the Writing Assessment Framework for the 2030 National Assessment of Educational Progress

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Notice of opportunity for preliminary public comment for the Writing Assessment Framework for the 2030 National Assessment of Educational Progress (NAEP).

SUMMARY: The National Assessment Governing Board (Governing Board) is soliciting public comment for preliminary guidance in updating the Assessment Framework for the 2030 National Assessment of Educational Progress (NAEP) in Writing.

SUPPLEMENTARY INFORMATION: The Governing Board is authorized to formulate policy guidelines for NAEP. Section 302 (e)(1)(c) of Public Law 107–279 specifies that the Governing Board determines the content to be assessed for each NAEP Assessment. Each NAEP subject area assessment is guided by a framework that defines the scope of the domain to be measured by delineating the knowledge and skills to be tested at each grade and subject, the format of the assessment, and the achievement level descriptions—guiding assessments that are valid, reliable, and reflective of widely accepted professional standards. The NAEP Writing Assessment Framework was last revised in 2007 for use in 2011 (the assessment was also administered in 2017 but results could not be reported due to technical issues). Comments received in response to this notice will be utilized to inform Governing Board decisions on the extent of revisions needed to update the NAEP Writing Assessment Framework. If needed, a Governing Board charge to launch the framework revision process is anticipated at the May 2023 quarterly Board meeting.

Public and private parties and organizations are invited to provide written comments and recommendations relative to the current framework, adopted in 2007. Comments should specifically address: (a) whether the 2017 NAEP Writing Framework needs to be updated; (b) if the framework needs to be updated, why a revision is needed; and (c) what should a revision to the framework include? This notice sets forth the review schedule and provides information for accessing additional materials that will be informative and useful for this review.

Assessment and Item Specifications elaborate on the framework as guidance for item development conducted by the National Center for Education Statistics (NCES) and the NAEP assessment development contractor(s). The framework development and update process also produces recommendations for contextual variables, which supports NCES' development of the questionnaires administered to students, teachers, and schools to help the public understand the achievement results in each subject. By engaging NAEP's audiences, partners, and stakeholders in the panels that provide recommendations for NAEP frameworks and by seeking public comment, NAEP

frameworks reflect content valued by the public as important to measure. Additional information on the Governing Board's work in developing NAEP Frameworks and Specifications can be found at *https://www.nagb.gov/naep-frameworks/frameworks-overview.html.*

All responses will be taken into consideration before finalizing the recommendations for updating the NAEP Writing Assessment Framework. Once finalized, recommendations will be used to guide a framework update process, if an update is needed for the 2030 NAEP Writing Assessment.

Comments shall be submitted via email to *nagb@ed.gov* with the email subject header NAEP Writing Framework no later than 5:00 p.m. Eastern Time on Friday, January 13. It is anticipated that public comments will be shared and discussed publicly in upcoming Governing Board meetings and materials. *When providing comment, please indicate if you are not comfortable with your name and affiliation being included with the comments that will be shared publicly by the Governing Board in its deliberations.*

Additional information (including the materials referenced below) can be found on the project website at *https://www.nagb.gov/naep/frameworks-overview/framework-development/initial-public-comment-on-the-naep-writing-assessment-framework.html.*

Existing Writing Framework for the NAEP

The existing framework (adopted in 2007) can be downloaded from the Governing Board website at: *https://www.nagb.gov/naep-subject-areas/writing.html.*

Governing Board's Periodic Review and Updating of NAEP Frameworks

Governing Board policy articulates the Board's commitment to a comprehensive, inclusive, and deliberative process to determine and update the content and format of all NAEP assessments. For each NAEP assessment, this process results in a NAEP framework, outlining what is to be measured and how it will be measured. Periodically, the Governing Board reviews existing NAEP frameworks to determine if changes are warranted. Each NAEP framework development and update process considers a wide set of factors, including but not limited to reviews of recent research on teaching and learning, changes in state and local standards and assessments, and the latest perspectives on the nation's future needs and desirable levels of achievement.

In 2022, the Board is initiating a preliminary review of the NAEP Writing Framework. The Governing Board's NAEP Writing Framework review will use general public comment collected through this notice as well as expert commentary to determine whether a framework update is required and the type of updates that may be needed. Learn more about framework update processes at *https://www.nagb.gov/content/dam/nagb/en/documents/naep/NAEP-Frameworks-FAQ_FINAL.pdf.*

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* 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 Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the Adobe website. 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.

Authority: Pub. L. 107–279, Title III—National Assessment of Educational Progress § 301.

Lesley Muldoon,

Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2022–26353 Filed 12–2–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0110]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; HEAL Program: Physician's Certification of Borrower's Total and Permanent Disability

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before January 4, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: HEAL Program: Physician's Certification of Borrower's Total and Permanent Disability.

OMB Control Number: 1845–0124.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals or Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 82.

Total Estimated Number of Annual Burden Hours: 22.

Abstract: This is a request for an extension of the OMB approval of the information collection associated with the form for the Health Education Assistance Loan (HEAL) Program, Physician's Certification of Borrower's

Total and Permanent Disability, currently approved under OMB Control Number 1845–0124. The form is HEAL 539. A borrower and the borrower's physician must complete this form. The borrower then submits the form and additional information to the lending institution (or current holder of the loan) who in turn forwards the form and additional information to the Secretary for consideration of discharge of the borrower's HEAL loans. The form provides a uniform format for borrowers and lenders to use when submitting a disability claim.

Dated: November 30, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–26386 Filed 12–2–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Renewal

AGENCY: U.S. Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a renewal of a collection of information for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995.

DATES: Comments regarding this information collection must be received on or before January 4, 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, please advise the OMB Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4718.

ADDRESSES: Written comments and recommendations for the information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mike Hamar, EHSS–1.2/6H–035 Forrestal Building, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585–1290, by phone on 202–586–2569 or by email at *mike.hamar@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.:* 1910–5122;

(2) *Information Collection Request Title:* Human Reliability Program;

(3) *Type of Request:* Renewal;

(4) *Purpose:* The purpose of this collection is to ensure that individuals who occupy positions affording access to certain materials, nuclear explosive devices, facilities, and programs meet the highest standards of reliability and physical and mental suitability.

(5) *Annual Estimated Number of Respondents:* 41,321;

(6) *Annual Estimated Number of Total Responses:* 41,365;

(7) *Annual Estimated Number of Burden Hours:* 3,587;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $315,656.

Statutory Authority: 42 U.S.C. 2165; 42 U.S.C. 2201; 42 U.S.C. 5814–5815; 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended; 3 CFR chap. IV.

Signing Authority

This document of the Department of Energy was signed on November 28, 2022, by Todd N. Lapointe, Acting Director, Office of Environment, Health, Safety and Security, 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 29, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2022–26327 Filed 12–2–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Quantum Initiative Advisory Committee; Correction

AGENCY: Department of Energy.

ACTION: Notice of open meeting; correction.

SUMMARY: On November 25, 2022, the Department of Energy published a notice of open meeting announcing a meeting on December 16, 2022, of the National Quantum Initiative Advisory Committee. This document makes a correction to that notice.

FOR FURTHER INFORMATION CONTACT: Thomas Wong, Designated Federal Officer, NQIAC, (240) 220–4668 or email: *NQIAC@quantum.gov.*

SUPPLEMENTARY INFORMATION:

Corrections

In the **Federal Register** of November 25, 2022, in FR Doc. 2022–25721 (87 FR 72468), on pages 72468–72469, please make the following correction:

In that notice under **DATES**, the meeting time has been changed. The original meeting time was 2 p.m. to 4 p.m. EST. The new meeting time is 9 a.m.–11 a.m. EST.

Under the **SUPPLEMENTARY INFORMATION**, correct the paragraph to the following:

Purpose of the Committee: The NQIAC has been established to advise the President, the National Science and Technology Council (NSTC) Subcommittee on Quantum Information Science (SCQIS), and the NSTC Subcommittee on Economic and Security Implications of Quantum Science (ESIX) on the National Initiative Act (NQI) Program, and on trends and developments in quantum information science and technology, in accordance with the National Quantum Initiative Act (Pub. L. 115–368) and Executive Order 14073.

Signed in Washington, DC, on November 29, 2022.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–26326 Filed 12–2–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP23–20–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Southern Natural Gas Company, L.L.C. submits Application for Abandonment of Transportation Southern's FERC Gas Tariff, Original Volume 2.
Accession Number: 20221122–5180.
Comment Date: 12/13/22.

Docket Numbers: PR23–11–000.
Applicants: UGI Utilities, Inc.
Description: § 284.123(g) Rate Filing: Rate Election 11–28–2022 to be effective 11/28/2022.
Filed Date: 11/28/22.
Accession Number: 20221128–5075.
Comment Date: 5 p.m. ET 12/19/22.
184.123(g) Protest: 5 p.m. ET 1/27/23.

Docket Numbers: RP23–209–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) Rate Filing: Minimum Fuel and Loss Reimbursement Percentages to be effective 1/1/2023.
Filed Date: 11/28/22.
Accession Number: 20221128–5070.
Comment Date: 5 p.m. ET 12/12/22.

Docket Numbers: RP23–210–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Compliance filing: Cashout Report 2021–2022 to be effective N/A.
Filed Date: 11/29/22.
Accession Number: 20221129–5057.
Comment Date: 5 p.m. ET 12/12/22.

Docket Numbers: RP23–211–000.
Applicants: Dauphin Island Gathering Partners.
Description: § 4(d) Rate Filing: Negotiated Rate Filing 11–29–2022 to be effective 11/29/2022.
Filed Date: 11/29/22.
Accession Number: 20221129–5060.
Comment Date: 5 p.m. ET 12/12/22.

Docket Numbers: RP23–212–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: SCRM Filing Nov 22 to be effective 1/1/2023.
Filed Date: 11/29/22.
Accession Number: 20221129–5065.
Comment Date: 5 p.m. ET 12/12/22.

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 29, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–26385 Filed 12–2–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC23–1–000]

Commission Information Collection Activities (FERC–725I) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725I (Mandatory Reliability Standards for the Northeast Power Coordinating Council (NPCC)).

DATES: Comments on the collection of information are due February 3, 2023.

ADDRESSES: You may submit your comments (identified by Docket No. IC23–1–000) by one of the following methods:

Electronic filing through *https://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

○ *Mail via U.S. Postal Service Only, Addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (Including Courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725I (Mandatory Reliability Standards for the Northeast Power Coordinating Council).

OMB Control No.: 1902–0258.

Type of Request: Three-year extension of the FERC–725I with no changes to the current recordkeeping requirements.

Abstract: The Regional Reliability standard PRC–006–NPCC–2 (Automatic Underfrequency Load Shedding (UFLS)) provides regional requirements for Automatic UFLS to applicable entities in NPCC. UFLS requirements were in place at a continent-wide level and within NPCC for many years prior to the implementation of federally mandated reliability standards in 2007. NPCC and its members think that a region-wide, fully coordinated single set of UFLS requirements is necessary to create an effective and efficient UFLS program, and their experience has supported that belief.

Information collection burden for Reliability Standard PRC–006–NPCC–2 is based on the time needed for planning coordinators and generator owners to incrementally gather data, run studies, and analyze study results to design or update the UFLS programs that are required in the regional Reliability Standard (in addition to the requirements of the NERC Reliability Standard PRC–006–3). There is also burden on the generator owners to maintain data such as identify, compile, and maintain a list of all of its existing non-nuclear generating units that were in service prior to the effective date of the regional Standard.

Type of Respondent: Generator Owners and Planning Coordinators.

Estimate of Annual Burden: [1] The number of respondents is based on NERC's Registry as of November 4, 2022. Entities registered for more than one applicable function type have been accounted for in the figures below. The Commission estimates the annual public reporting burden and cost [2] for the information collection as:

FERC–725I—(MANDATORY RELIABILITY STANDARDS FOR THE NORTHEAST POWER COORDINATING COUNCIL)

Information collection requirements	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost ($) per response (4)	Total annual burden hours & total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
PCs Design and document automatic UFLS program.	3	1	3	8 hrs.; $728	24 hrs.; $2,184	$728
PCs update and maintain UFLS program database.	3	1	3	16 hrs.; $1,456	48 hrs.; $4,368	$1,456
GOs provide documentation and data to the planning coordinator.	121	1	121	16 hrs.; $1,456	1,936 hrs.; $176,176.	1,456
GOs: record retention	121	1	121	4 hrs.; $364	484 hrs.; $33,300,176.	364
Total			248		2,492 hrs.; $199,360	

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: November 29, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–26388 Filed 12–2–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC23–33–000.

Applicants: Huck Finn Solar, LLC, HFREC Holding Company, LLC, Union Electric Company d/b/a Ameren Missouri.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Huck Finn Solar, LLC.

Filed Date: 11/29/22.

Accession Number: 20221129–5111.

Comment Date: 5 p.m. ET 1/30/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1053–001; ER21–2573–001.

Applicants: HollyFrontier Puget Sound Refining LLC, HollyFrontier El Dorado Refining LLC.

Description: Notice of Change in Status of HollyFrontier El Dorado Refining LLC, et al.

Filed Date: 11/28/22.

Accession Number: 20221128–5157.

Comment Date: 5 p.m. ET 12/19/22.

Docket Numbers: ER19–1553–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits Formula Transmission Rate Annual Update Filing (TO2023).

Filed Date: 11/18/22.

Accession Number: 20221118–5107.

Comment Date: 5 p.m. ET 12/9/22.

Docket Numbers: ER22–2624–001.

Applicants: Middletown Coke Company, LLC.

Description: Tariff Amendment: Amendment to 189 to be effective 11/3/2022.

Filed Date: 11/3/22.

Accession Number: 20221103–5126.

Comment Date: 5 p.m. ET 12/13/22.

Docket Numbers: ER23–500–000.

Applicants: Capital Energy PA LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Capital Energy PA LLC.

Filed Date: 11/28/22.

Accession Number: 20221128–5156.

Comment Date: 5 p.m. ET 12/19/22.

Docket Numbers: ER23–501–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Services Company.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2022–11–29_SA 3932 Union Electric-Hannibal-MJMEUC WCA to be effective 12/15/2022.

Filed Date: 11/29/22.

Accession Number: 20221129–5027.

Comment Date: 5 p.m. ET 12/20/22.

Docket Numbers: ER23–502–000.

Applicants: HollyFrontier Puget Sound Refining LLC.

Description: § 205(d) Rate Filing: Notice of Succession filing to be effective 11/30/2022.

Filed Date: 11/29/22.

Accession Number: 20221129–5085.

Comment Date: 5 p.m. ET 12/20/22.

Docket Numbers: ER23–503–000.

Applicants: HollyFrontier El Dorado Refining LLC.

Description: § 205(d) Rate Filing: Notice of Succession filing to be effective 11/30/2022.

Filed Date: 11/29/22.

Accession Number: 20221129–5088.

Comment Date: 5 p.m. ET 12/20/22.

Docket Numbers: ER23–504–000.

[1] "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 CFR 1320.3.

[2] Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC–725I are approximately the same as the Commission's average cost. The FERC 2022 average salary plus benefits for one FERC full-time equivalent (FTE) is $188,922/year (or $91.00/hour).

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 249 to be effective 12/31/2022.

Filed Date: 11/29/22.

Accession Number: 20221129–5124.

Comment Date: 5 p.m. ET 12/20/22.

Docket Numbers: ER23–505–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Monte Alto Windpower 6th A&R GIA to be effective 11/14/2022.

Filed Date: 11/29/22.

Accession Number: 20221129–5125.

Comment Date: 5 p.m. ET 12/20/22.

Docket Numbers: ER23–506–000.

Applicants: AEP Oklahoma Transmission Company, Inc.

Description: § 205(d) Rate Filing: AEPOTC-Seven Cowboy Wind Maintenance Agreement to be effective 11/7/2022.

Filed Date: 11/29/22.

Accession Number: 20221129–5129.

Comment Date: 5 p.m. ET 12/20/22.

Docket Numbers: ER23–507–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 16 to be effective 1/30/2023.

Filed Date: 11/29/22.

Accession Number: 20221129–5143.

Comment Date: 5 p.m. ET 12/20/22.

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 29, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–26384 Filed 12–2–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–6–000]

RH energytrans, LLC; Notice of Request for Extension of Time

Take notice that on November 18, 2022, RH energytrans, LLC (RH) requested that the Federal Energy Regulatory Commission (Commission) grant a second extension of time, until December 7, 2024, to complete construction of, and place into service, its Meadville and County Line compressor stations in Crawford and Erie Counties, Pennsylvania. The Commission previously issued a letter order granting an extension of time until and including December 7, 2022.[1] The Order Issuing Certificate (Certificate Order)[2] required RH to complete the construction of the proposed Risberg Line Project facilities[3] and make them available for service within two years from issuance, or by December 7, 2020.[4]

In RH's initial October 2020 request for an extension of time[5] RH stated that it had experienced construction delays due to winter weather, the dissolution of one of its pipeline contractors, and delays resulting from COVID–19 pandemic restrictions. RH states that it has continued to experience similar conditions and that commercial activity has only slowly been returning in the areas served by the Risberg Line. As a result, RH now requests an additional two years, or until December 7, 2024, to complete the authorized construction at the Meadville and County Line compressor stations and make them available for service.[6]

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on RH'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).[7]

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,[8] the Commission will aim to issue an order acting on the request within 45 days.[9] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[10] 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.[11] 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.[12] The OEP Director, or his or her designee, will act on 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://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

[1] RH *energytrans, LLC,* Docket No. CP18–6–000, Letter Order (Nov. 18, 2020).

[2] *RH energytrans, LLC,* 165 FERC ¶ 61,218 (2018) (Certificate Order).

[3] The Risberg Line Project consists of the conversion of 31.6 miles of existing 8-inch and 12-inch natural gas gathering pipeline to transmission service, construction of 28.3 miles of new 12-inch pipeline, conversion of the existing Countyline Compressor station from gathering to transmission service, and construction of a new compressor station at Meadville, PA.

[4] *Id.* at ordering para. (B)(1).

[5] RH energytrans, LLC, Request for Extension of Time to Complete Construction of Jurisdictional Facilities, Docket No. CP18–6–000 (Oct. 19, 2020).

[6] On December 1, 2019, RH placed all of the Risberg Line Project facilities into service except for the Meadville and County Line compressor stations.

[7] Only motions to intervene from entities that were party to the underlying proceeding will be accepted. *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 39 (2020).

[8] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR. 385.2201(c)(1) (2020).

[9] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[10] *Id.* P 40.

[11] 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.

[12] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

proclamation declaring a National Emergency concerning 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 ''eFile'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original copy of the protest or intervention by U.S. mail to Kimberly D. Bose, Secretary Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Submissions by any other courier in docketed proceedings should be delivered to, Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on December 14, 2022.

Dated: November 29, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–26383 Filed 12–2–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10261–01–OMS]

Senior Executive Service Performance Review Board; Membership

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given of the membership of the U.S. Environmental Protection Agency (EPA) Performance Review Board for 2022.

FOR FURTHER INFORMATION CONTACT: Lizabeth Engebretson, Deputy Director, Policy, Planning & Training Division, 3606R, Office of Human Resources, Office of Mission Support, U.S. Environmental Protection Agency, 1300 Pennsylvania Avenue NW, Washington, DC 20460. (202) 564–0804.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. This board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointment authority relative to the performance of the senior executive. Members of the 2022 EPA Performance Review Board are:

Tom Brennan, Director, Science Advisory Board, Office of the Administrator;
Jeffrey Dawson, Senior Science Advisor, Office of Chemical Safety and Pollution Prevention;
Rafael Deleon, Principal Deputy Assistant Administrator, Office of International and Tribal Affairs;
Kerry Drake, Mission Support Division Director, Region 9;
Lizabeth Engebretson, (Ex-Officio) Deputy Director, Policy, Planning and Training Division, Office of Human Resources, Office of Mission Support;
Diana Esher, Deputy Regional Administrator, Region 3;
Vanessa ''Kay'' Holt, Deputy Director for Management, Center for Public Health & Environmental Assessment, Office of Research and Development;
Meshell Jones-Peeler, Controller, Office of the Chief Financial Officer;
Juan Carlos Hunt, Director, Office of Civil Rights, Office of the Administrator;
Samantha Jones, Associate Director for Risk Assessment, Center for Public Health and Environmental Assessment, Office of Research and Development;
Mara J. Kamen, (Ex-Officio) Director, Office of Human Resources, Office of Mission Support;
Arnold Layne, Deputy Director for Management, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention;
Pamela Legare, Director, Office of Acquisition Management, Office of Mission Support;
David Lloyd, Director, Office of Brownfields and Land Revitalization, Office of Land and Emergency Management;
James McDonald, Mission Support Division Director, Region 6;
Karen McGuire, Director, Enforcement & Compliance Assurance Division, Region 1;
Mary Ross, Director, Office of Science Advisor, Policy & Engagement, Office of Research and Development;
Kenneth Schefski, Regional Counsel—Region 8, Office of Enforcement and Compliance Assurance;
Gautam Srinivasan, Associate General Counsel, Air and Radiation Law Office, Office of General Counsel;
Thomas Wall, Director, Watershed Restoration, Assessment and Protection Division, Office of Water;
Richard ''Chet'' Wayland, Director of the Air Quality Assessment Division, Office of Air Quality Planning and Standards, Office of Air and Radiation.

Dated: November 21, 2022.

Mara J. Kamen,

EPA Deputy Chief Human Capital Officer and Director, Office of Human Resources, Office of Mission Support.

[FR Doc. 2022–26362 Filed 12–2–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[IB Docket No. 16–185; DA 22–1204; FR 116210]

Informal Working Group–1, Informal Working Group–2, Informal Working Group–3, and Informal Working Group–4 of the World Radiocommunication Conference Advisory Committee Schedule Their Meetings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This notice advises interested persons that Informal Working Group 1 (IWG–1), Informal Working Group 2 (IWG–2,) Informal Working Group 3 (IWG–3,) and Informal Working Group 4 (IWG–4) of the 2023 World Radiocommunication Conference Advisory Committee (WRC–23 Advisory Committee) have scheduled meetings as set forth below. The meetings are open to the public.

DATES: IWG–3: Tuesday, December 13, 2022 at 11:00 a.m. ET; IWG–4: Tuesday, December 13, 2022 at 1:00 p.m. ET; IWG–3: Tuesday, January 10, 2023 at 11:00 a.m. ET; IWG–4: Tuesday, January 10, 2023 at 1:00 p.m. ET; IWG–1: Wednesday, January 11, 2023 at 10:30 a.m. ET; IWG–2: Wednesday, January 11, 2023 at 1:00 p.m. ET; IWG–1: Tuesday, January 24, 2023 at 10:30 a.m. ET; IWG–2: Tuesday, January 24, 2023 at 1:00 p.m. ET; IWG–3: Tuesday, January 31, 2023 at 11:00 a.m. ET; IWG–4: Tuesday, January 31, 2023 at 1:00 p.m. ET; IWG–3: Thursday, February 16, 2023 at 11:00 a.m. ET; IWG–4: Thursday, February 16, 2023 at 1:00 p.m. ET; IWG–1: Tuesday, February 28, 2023 at 10:30 a.m. ET; IWG–2: Tuesday, February 28, 2023 at 1:00 p.m. ET; IWG–1: Tuesday, March 14, 2023 at 10:30 a.m. ET ; IWG–2: Tuesday, March 14, 2023 at 1:00 p.m. ET ; IWG–1: Wednesday, March 22, 2023 at 10:30 a.m. ET ; IWG–2: Wednesday, March 22, 2023 at 1:00 p.m. ET.

ADDRESSES: The meetings will be held virtually.

FOR FURTHER INFORMATION CONTACT: Dante Ibarra, Designated Federal Official, World Radiocommunication Conference Advisory Committee, FCC International Bureau, Global Strategy and Negotiation Division, at *Dante.Ibarra@fcc.gov,* (202)–418–0610 or *WRC-23@fcc.gov.*

SUPPLEMENTARY INFORMATION: The FCC established the Advisory Committee to provide advice, technical support and recommendations relating to the

preparation of United States proposals and positions for the 2023 World Radiocommunication Conference (WRC–23).

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the IWG–1, IWG–2, IWG–3 and IWG–4 of the WRC–23 Advisory Committee scheduled meetings. The Commission's WRC–23 website *(www.fcc.gov/wrc-23)* contains the latest information on all scheduled meetings, meeting agendas, and WRC–23 Advisory Committee matters.

Below is additional IWG meeting information:

WRC–23 ADVISORY COMMITTEE

SCHEDULE OF MEETINGS OF INFORMAL WORKING GROUPS 1, 2, 3 AND 4

Informal Working Group 1: Maritime, Aeronautical and Radar Services

Chair—Damon Ladson, *dladson@hwglaw.com,* (202) 730–1315
Vice Chair—Kim Kolb, *kim.l.kolb@boeing.com,* (703) 465–3373
FCC Representatives: Louis Bell, *louis.bell@fcc.gov,* telephone: (202) 418–1641; Gregory Baker, *Gregory.baker@fcc.gov,* telephone: (202) 418–0611

IWG–1—Meetings

Dates: Wednesday, January 11, 2023, Tuesday, January 24, 2023, Tuesday, February 28, 2023, Tuesday, March 14, 2023, Wednesday, March 22, 2023
Time: 10:30 a.m. ET
Join ZoomGov Meeting: https://fcc-gov.zoomgov.com/j/1609858494?pwd=bzlnZVFhK0xYOEJaa3hHZnMzVFMyQT09
Meeting ID: 160 985 8494
Passcode: 554585
One tap mobile
+16692545252,,1609858494#,,,,*554585# US (San Jose)
+16468287666,,1609858494#,,,,*554585# US (New York)
Dial by your location:
+1 669 254 5252 US (San Jose)
+1 646 828 7666 US (New York)
+1 551 285 1373 US
+1 669 216 1590 US (San Jose)
Meeting ID: 160 985 8494
Passcode: 554585
Find your local number: *https://fcc-gov.zoomgov.com/u/ajtFuOgdJ*

Informal Working Group 2: Terrestrial Services

Chair—Jayne Stancavage, *Jayne.Stancavage@intel.com,* (408) 887–3186
Vice Chair—Daudeline Meme, *daudeline.meme@verizon.com,* (202) 253–8362
FCC Representatives: Louis Bell, *louis.bell@fcc.gov,* telephone: (202) 418–1641; Dante Ibarra, *dante.ibarra@fcc.gov,* telephone: (202) 418–0610

IWG–2—Meetings

Dates: Wednesday, January 11, 2023, Tuesday, January 24, 2023, Tuesday, February 28, 2023, Tuesday, March 14, 2023, Wednesday, March 22, 2023
1:00 p.m. ET
Join ZoomGov Meeting: https://fcc-gov.zoomgov.com/j/1606889204?pwd=Z0FYemN2djlFeHlROFZMN0RvQ3JMUT09
Meeting ID: 160 688 9204
Passcode: 332612
One tap mobile
+16692545252,,1606889204#,,,,*332612# US (San Jose)
+16468287666,,1606889204#,,,,*332612# US (New York)
Dial by your location:
+1 669 254 5252 US (San Jose)
+1 646 828 7666 US (New York)
+1 551 285 1373 US
+1 669 216 1590 US (San Jose)
Meeting ID: 160 688 9204
Passcode: 332612
Find your local number: *https://fcc-gov.zoomgov.com/u/aeJeShcBGT*

Informal Working Group 3: Space Services

Chair—Giselle Creeser, *giselle.creeser@intelsat.com,* (703) 559–7851
Vice Chair—Ryan Henry, *ryan.henry@ses.com,* (202) 878–9360
FCC Representatives: Clay DeCell, *clay.decell@fcc.gov,* telephone: (202) 418–0803; Kathyrn Medley, *kathyrn.medley@fcc.gov,* telephone: (202) 418–1211; Eric Grodsky, *eric.grodsky@fcc.gov,* telephone: (202) 418–0563; Dante Ibarra, *dante.ibarra@fcc.gov,* telephone: (202) 418–0610

IWG–3—Meetings

Dates: Tuesday, December 13, 2022, Tuesday, January 10, 2023, Tuesday, January 31, 2023, Thursday, February 16, 2023, Tuesday, March 7, 2023, Tuesday, March 21, 2023
Time: 11:00 a.m. ET
Join ZoomGov Meeting: https://fcc-gov.zoomgov.com/j/1607372803?pwd=L3BRaUJ2N1FrTDB3cmFSUnVMVzMxQT09
Meeting ID: 160 737 2803
Passcode: 970658
One tap mobile
+16692545252,,1607372803#,,,,*970658# US (San Jose)
+16468287666,,1607372803#,,,,*970658# US (New York)
Dial by your location:
+1 669 254 5252 US (San Jose)
+1 646 828 7666 US (New York)
+1 669 216 1590 US (San Jose)
+1 551 285 1373 US
Meeting ID: 160 737 2803
Passcode: 970658
Find your local number: *https://fcc-gov.zoomgov.com/u/aITdLAKu6*

Informal Working Group 4: Regulatory Issues

Chair—Stephen Baruch, *sbaruch@newwavespectrum.com,* (240) 476–2600
Vice Chair—Alex Epshteyn, *epshtey@amazon.com,* (703) 963–6136
FCC Representatives: Dante Ibarra, *dante.ibarra@fcc.gov,* telephone: (202) 418–0610; Clay DeCell, *clay.decell@fcc.gov,* telephone: (202) 418–0803

IWG–4—Meetings

Dates: Tuesday, December 13, 2022, Tuesday, January 10, 2023, Tuesday, January 31, 2023, Thursday, February 16, 2023, Tuesday, March 7, 2023, Tuesday, March 21, 2023
Time: 1:00 p.m. ET
Join ZoomGov Meeting: https://fcc-gov.zoomgov.com/j/1600725771?pwd=d3pCNS9FY2RhWGVaQWFaeVBCQ2EwUT09
Meeting ID: 160 072 5771
Passcode: 624667
One tap mobile
+16692545252,,1600725771#,,,,*624667# US (San Jose)
+16468287666,,1600725771#,,,,*624667# US (New York)
Dial by your location:
+1 669 254 5252 US (San Jose)
+1 646 828 7666 US (New York)
+1 669 216 1590 US (San Jose)
+1 551 285 1373 US
Meeting ID: 160 072 5771
Passcode: 624667
Find your local number: *https://fcc-gov.zoomgov.com/u/adlrIfZWcR*

Federal Communications Commission.

Nese Guendelsberger,

Deputy Chief, International Bureau.

[FR Doc. 2022–26341 Filed 12–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0126, OMB 3060–0289, OMB 3060–0419, OMB 3060–0433, OMB 3060–0674 and OMB 3060–1104; FR ID 116220]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as

required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before January 4, 2023.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0126.

Title: Section 73.1820, Station Log.

Form Number: N/A.

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: 15,200 respondents; 15,200 responses.

Estimated Time per Response: 0.017–0.5 hours.

Frequency of Response: Recordkeeping requirement.

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

Total Annual Burden: 15,095 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1820 require that each licensee of an AM, FM or TV broadcast station maintain a station log. Each entry must accurately reflect the station's operation. This log should reflect adjustments to operating parameters for AM stations with directional antennas without an approved sampling system; for all stations the actual time of any observation of extinguishment or improper operation of tower lights; and entry of each test of the Emergency Broadcast System (EBS) for commercial stations.

OMB Control Number: 3060–0289.

Title: Section 76.601, Performance Tests; Section 76.1704, Proof of Performance Test Data; Section 76.1717, Compliance with Technical Standards.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, and state, local, or tribal government.

Number of Respondents: 4,085 respondents, 6,433 responses.

Estimated Time per Response: 0.5 to 70 hours.

Frequency of Response: Recordkeeping requirement, Semi-annual and Triennial reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 624(e) of the Communications Act of 1934, as amended.

Total Annual Burden: 166,405 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements contained in 47 CFR 76.1705 requires that the operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers. 47 CFR 76.601(b) and (c) require cable systems with over 1,000 subscribers that deliver analog signals to conduct semi-annual proof of performance tests and triennial proof of performance tests for color testing. 47 CFR 76.601 also states that prior to additional testing pursuant to section 76.601(c), the local franchising authority shall notify the cable operator, who will then be allowed thirty days to come into compliance with any perceived signal quality problems which need to be corrected. 47 CFR 76.1704 requires that proof of performance test required by 47 CFR 76.601 shall be maintained on file at the operator's local business office for at least five years. The test data shall be made available for inspection by the Commission or the local franchiser, upon request. If a signal leakage log is being used to meet proof of performance test recordkeeping requirement in accordance with section 76.601, such a log must be retained for the period specified in 47 CFR 76.601(d). 47 CFR 76.1705 requires that the operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers. 47 CFR 76.1717 states that

an operator shall be prepared to show, on request by an authorized representative of the Commission or the local franchising authority, that the system does, in fact, comply with the technical standards rules in part 76, subpart K.

OMB Control Number: 3060–0419.

Title: Network Non-duplication Protection and Syndication Exclusivity: Sections 76.94, Notification; 76.95, Exceptions; 76.105, Notifications; 76.106, Exceptions; 76.107, Exclusivity Contracts; and 76.1609, Non-Duplication and Syndicated Exclusivity.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5,511 respondents; 238,008 responses.

Estimated Time per Response: 0.5 to 2 hours.

Frequency of Response: On occasion reporting requirement; One-time reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this Information collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 221,644 hours.

Total Annual Cost: No cost.

Needs and Uses: The purpose of the various notification and disclosure requirements accounted for in this collection are to protect broadcasters who purchase the exclusive rights to transmit network or syndicated programming in their recognized market areas. The Commission's network non-duplication and syndicated exclusivity rules permit, but do not require broadcasters and program distributors to obtain the same enforceable exclusive distribution rights for network and syndicated programming that all other video programming distributors possess.

OMB Control Number: 3060–0433.

Title: Basic Signal Leakage Performance Report.

Form Number: FCC Form 320.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,038 respondents and 2,423 responses.

Frequency of Response: Recordkeeping requirement, Annual reporting requirement.

Estimated Time per Hours: 20 hours.

Total Annual Burden: 48,460 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 302 and 303 of the Communications Act of 1934, as amended.

Needs and Uses: Cable television system operators and Multichannel Video Programming Distributors (MPVDs) who use frequencies in the bands 108–137 and 225–400 MHz (aeronautical frequencies) are required to file a Cumulative Signal Leakage Index (CLI) derived under 47 CFR 76.611(a)(1) or the results of airspace measurements derived under 47 CFR 76.611(a)(2). This filing must include a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This yearly filing of FCC Form 320 is done in accordance with 47 CFR 76.1803. The records must be retained by cable operators.

OMB Control Number: 3060–0674.

Title: Section 76.1618, Basic Tier Availability.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,139 respondents; 4,139 responses.

Estimated Time per Response: 2.25 hours.

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 4(i) and Section 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 9,313 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 76.1618 state that a cable operator shall provide written notification to subscribers of the availability of basic tier service to new subscribers at the time of installation. This notification shall include the following information: (a) That basic tier service is available; (b) the cost per month for basic tier service; and (c) a list of all services included in the basic service tier. These notification requirements are to ensure the subscribers are made aware of the availability of basic cable service at the time of installation.

OMB Control Number: 3060–1104.

Title: Section 73.682(d), DTV Transmission and Program System and Information Protocol (''PSIP'') Standards.

From Number: N/A.

Type of Review: Extension of currently approved collection.

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

Number of Respondents and Responses: 1,812 respondents and 1,812 responses.

Estimated Hours per Response: 0.50 hours.

Frequency of Response: Third Party Disclosure requirement; Weekly reporting requirement.

Total Annual Burden: 47,112 hours.

Total Annual Cost: No costs.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 309 and 337 of the Communications Act of 1934, as amended.

Needs and Uses: Section 73.682(d) of the Commission's rules incorporates by reference the Advanced Television Systems Committee, Inc. (''ATSC'') Program System and Information Protocol (''PSIP'') standard ''A/65C.'' PSIP data is transmitted along with a TV broadcast station's digital signal and provides viewers (via their DTV receivers) with information about the station and what is being broadcast, such as program information. The Commission has recognized the utility that the ATSC PSIP standard offers for both broadcasters and consumers (or viewers) of digital television (''DTV'').

ATSC PSIP standard A/65C requires broadcasters to provide detailed programming information when transmitting their broadcast signal. This standard enhances consumers' viewing experience by providing detailed information about digital channels and programs, such as how to find a program's closed captions, multiple streams and V-chip information. This standard requires broadcasters to populate the Event Information Tables (''EITs'') (or program guide) with accurate information about each event (or program) and to update the EIT if more accurate information becomes available. The previous ATSC PSIP standard A/65–B did not require broadcasters to provide such detailed programming information but only general information.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–26348 Filed 12–2–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 87 FR 69271.

PREVIOUSLY ANNOUNCED TIME, DATE, AND PLACE OF THE MEETING: Thursday, December 1, 2022 at 10:00 a.m.

Hybrid Meeting: 1050 First Street NE, Washington, DC (12th floor) and Virtual.

CHANGES IN THE MEETING: The Open Meeting began at 10:30 a.m.

The following matters were also considered:

REG 2013–01 (Technological Modernization): Supplemental Notice of Proposed Rulemaking

Draft Advisory Opinion 2022–24: Allen Blue

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2022–26498 Filed 12–1–22; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 22–31]

Thompson Pipe Group, Inc. Complainant v. Omni Logistics LLC, Respondent; Notice of Filing of Complaint and Assignment

Served: November 29, 2022.

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by Thompson Pipe Group, Inc. hereinafter ''Complainant,'' against Omni Logistics LLC (f/k/a Epic Freight Service), hereinafter ''Respondent.'' Complainant states that it is a corporation organized in the State of Texas. Complainant identifies the Respondent as a limited liability company organized under the laws of the State of Texas and a Non-Vessel-Operating Common Carrier.

Complainant alleges that Respondent violated 46 U.S.C. 41102(c),41102(d), and 41104(a) in its practices, and assessment of charges, including demurrage and other non-freight charges, related to the movement of containers. The full text of the complaint can be found in the Commission's Electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/22-31/.*

This proceeding has been assigned to Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by November 29, 2023, and the final decision of the Commission shall be issued by June 12, 2024.

William Cody,

Secretary.

[FR Doc. 2022–26315 Filed 12–2–22; 8:45 am]

BILLING CODE 6730–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–6092–N]

RIN 0938–ZB73

Medicare, Medicaid, and Children's Health Insurance Programs; Provider Enrollment Application Fee Amount for Calendar Year 2023

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces a $688.00 calendar year (CY) 2023 application fee for institutional providers that are initially enrolling in the Medicare or Medicaid program or the Children's Health Insurance Program (CHIP); revalidating their Medicare, Medicaid, or CHIP enrollment; or adding a new Medicare practice location. This fee is required with any enrollment application submitted on or after January 1, 2023 and on or before December 31, 2023.

DATES: The application fee announced in this notice is effective on January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Frank Whelan, (410) 786–1302.

SUPPLEMENTARY INFORMATION:

I. Background

In the February 2, 2011 **Federal Register** (76 FR 5862), we published a final rule with comment period titled ''Medicare, Medicaid, and Children's Health Insurance Programs; Additional Screening Requirements, Application Fees, Temporary Enrollment Moratoria, Payment Suspensions and Compliance Plans for Providers and Suppliers.'' This rule finalized, among other things, provisions related to the submission of application fees as part of the Medicare, Medicaid, and CHIP provider enrollment processes. As provided in section 1866(j)(2)(C)(i) of the Social Security Act (the Act) and in 42 CFR 424.514, ''institutional providers'' that are initially enrolling in the Medicare or Medicaid programs or CHIP, revalidating their enrollment, or adding a new Medicare practice location are required to submit a fee with their enrollment application. An ''institutional provider'' for purposes of Medicare is defined at § 424.502 as ''any provider or supplier that submits a paper Medicare enrollment application using the CMS–855A, CMS–855B (not including physician and non-physician practitioner organizations), CMS–855S, or associated internet-based PECOS enrollment application.'' As we explained in the February 2, 2011 final rule (76 FR 5914), in addition to the providers and suppliers subject to the application fee under Medicare, Medicaid-only and CHIP-only institutional providers would include nursing facilities, intermediate care facilities for persons with intellectual disabilities (ICF/IID), and psychiatric residential treatment facilities; they may also include other institutional provider types designated by a state in accordance with their approved state plan.

As indicated in § 424.514 and § 455.460, the application fee is not required for either of the following:

- A Medicare physician or non-physician practitioner submitting a CMS–855I.
- A prospective or revalidating Medicaid or CHIP provider—

++ Who is an individual physician or non-physician practitioner; or

++ That is enrolled as an institutional provider in Title XVIII of the Act or another state's Title XIX or XXI plan and has paid the application fee to a Medicare contractor or another state.

II. Provisions of the Notice

Section 1866(j)(2)(C)(i)(I) of the Act established a $500 application fee for institutional providers in CY 2010. Consistent with section 1866(j)(2)(C)(i)(II) of the Act, § 424.514(d)(2) states that for CY 2011 and subsequent years, the preceding year's fee will be adjusted by the percentage change in the consumer price index (CPI) for all urban consumers (all items; United States city average, CPI–U) for the 12-month period ending on June 30 of the previous year. Consequently, each year since 2011 we have published in the **Federal Register** an announcement of the application fee amount for the forthcoming CY based on this formula. Most recently, in the October 25, 2021 **Federal Register** (86 FR 58917), we published a notice announcing a fee amount for the period of January 1, 2022 through December 31, 2022 of $631.00. The $631.00 fee amount for CY 2022 was used to calculate the fee amount for 2023 as specified in § 424.514(d)(2).

According to Bureau of Labor Statistics (BLS) data, the CPI–U increase for the period of July 1, 2021 through June 30, 2022 was 9.1 percent. As required by § 424.514(d)(2), the preceding year's fee of $631 will be adjusted by 9.1 percent. This results in a CY 2023 application fee amount of $688.42 ($631 × 1.091). As we must round this to the nearest whole dollar amount, the resultant application fee amount for CY 2023 is $688.00.

III. Collection of Information Requirements

This document does not impose information collection requirements (that is, reporting, recordkeeping, or third-party disclosure requirements). Accordingly, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995. However, it does reference previously approved information collections. The CMS–855A, CMS–855B, CMS–855I, and CMS–855S applications are approved under, respectively, OMB control numbers 0938–0685, 0938–1377, 0938–1355, and 0938–1056.

IV. Regulatory Impact Statement

A. Background and Review Requirements

We have examined the impact of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). As explained in this section of the notice, we estimate that the total cost of the increase in the application fee will not exceed $100 million. Therefore, this notice does not reach the $100 million economic threshold and is not considered a major notice.

B. Costs

The costs associated with this notice involve the increase in the application fee amount that certain providers and suppliers must pay in CY 2023. The CY 2023 cost estimates are as follows:

1. Medicare

Based on CMS data, we estimate that in CY 2023 approximately—

- 14,726 newly enrolling institutional providers will be subject to and pay an application fee; and
- 47,000 revalidating institutional providers will be subject to and pay an application fee.

Using a figure of 61,726 (14,726 newly enrolling + 47,000 revalidating) institutional providers, we estimate an increase in the cost of the Medicare application fee requirement in CY 2023 of $3,518,382 (or 61,726 × $57 (or $688 minus $631)) from our CY 2022 projections.

2. Medicaid and CHIP

Based on CMS and state statistics, we estimate that approximately 30,000 (9,000 newly enrolling + 21,000 revalidating) Medicaid and CHIP institutional providers will be subject to an application fee in CY 2023. Using this figure, we project an increase in the cost of the Medicaid and CHIP application fee requirement in CY 2023 of $1,710,000 (or 30,000 × $57 (or $688 minus $631)) from our CY 2022 projections.

3. Total

Based on the foregoing, we estimate the total increase in the cost of the application fee requirement for Medicare, Medicaid, and CHIP providers and suppliers in CY 2023 to be $5,228,382 ($3,518,382 + $1,710,000) from our CY 2022 projections.

We do not anticipate any negative impact on equity from the increase in the application fee amount, which we calculated in accordance with the requirements specified in statute and regulation. Prior application fee increases have had no such discernable effect, and we reiterate that the fee requirement does not apply to individual physicians and non-physician practitioners completing the CMS–855I, who represent the overwhelming preponderance of the more than 2 million Medicare-enrolled providers and suppliers.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $8 million to $41.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. As we stated in the RIA for the February 2, 2011 final rule (76 FR 5952), we do not believe that the application fee will have a significant impact on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2022, that threshold was approximately $165 million. The Agency has determined that there will be minimal impact from the costs of this notice, as the threshold is not met under the UMRA.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Since this notice does not impose substantial direct costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document.

Dated: November 29, 2022.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–26340 Filed 12–2–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for Office of Management and Budget (OMB) Review; Procedural Justice-Informed Alternatives to Contempt Demonstration (OMB #0970–0505)

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to add additional data collection activities as part of the rigorous evaluation of the Procedural Justice-Informed Alternatives to Contempt (PJAC) Demonstration. The proposed revision to conduct additional data collection is part of a research supplement that builds on the PJAC study to understand the role of bias in child support program enforcement actions.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: OCSE is proposing to conduct additional data collection activities as part of the PJAC Demonstration. In September 2016, OCSE issued grants to five state child support agencies to provide alternative approaches to the contempt process with the goal of increasing noncustodial parents' compliance with child support orders by building trust and confidence in the child support agency and its processes. OCSE also awarded a grant to support a rigorous evaluation of PJAC. The PJAC Demonstration is designed to help grantees and OCSE to learn whether incorporating principles of procedural justice into child support business practices increases reliable child support payments, reduces arrears, minimizes the need for continued enforcement actions and sanctions, and reduces the use of contempt proceedings.

The PJAC demonstration will yield information about the efficacy of applying procedural justice principles via a set of alternative services to the current use of a civil contempt process to address nonpayment of child support. As a part of the evaluation, PJAC will build evidence about disparity and bias in the child support system, with a focus on the use of enforcement actions used to coerce child support payments. The research will measure the extent to which bias is embedded within child support policies and practices. The information gathered may help inform future policy decisions to better understand and reduce disparities within the child support program.

The research will document disparities and differences in treatment by race and ethnicity, gender, and income within the child support system in up to three states participating in the PJAC demonstration. Key elements of the study include a quantitative analysis of disparities in the initiation of a child support case, setting of order amounts, order modifications, and use of punitive enforcement actions, including civil contempt; semi-structured interviews with staff from child support agencies and selected partner organizations; and separate semi-structured interviews with study participants to learn about their experiences with and perceptions of bias in the child support process, specifically in the use of enforcement actions.

OCSE is proposing to conduct additional data collection activities as part of the PJAC Demonstration, which include the following: a topic guide for interviews about experiences of bias with noncustodial parents and a topic guide for interviews about experiences of bias with child support staff and partners.

Data collection activities that were previously approved by OMB, following public comment, are the staff data entry on participant baseline information, study Management Information Systems (MIS) to track receipt of services, staff and community partner interview topic guide, the noncustodial parent participant interview protocol, the staff survey, the staff time study, and the custodial parent interview protocol. These instruments are currently in use and this request will extend approval to continue data collection. Supporting materials, including burden estimates related to approved instruments are available at *https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202202-0970-013.* The following burden table includes information for the proposed new interviews.

Respondents: Respondents for the new data collection instruments include study participants and child support program staff and partners at three of the six PJAC demonstration sites.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Topic list for interviews about experiences of bias with staff and partners	90	1	1.5	135	45
Topic guide for interviews about experiences of bias with noncustodial parents	90	1	1	90	30

Estimated Total Annual Burden Hours: 75.

Authority: 42 U.S.C. 1315.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–26328 Filed 12–2–22; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–3101]

Abbreviated New Drug Applications: Pre-Submission Facility Correspondence Related to Prioritized Generic Drug Submissions; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a revised draft guidance for industry entitled ''ANDAs: Pre-Submission Facility Correspondence Related to Prioritized Generic Drug Submissions.'' For purposes of implementing the Generic Drug User Fee Amendments of 2022 (GDUFA III), the Pre-Submission Facility Correspondence (PFC) process was revised as part of the performance goals and program enhancements agreed to by FDA and industry, as described in the GDUFA Reauthorization Performance Goals and Program Enhancements, Fiscal Years 2023 through 2027 (GDUFA III commitment letter). FDA assesses facility information submitted in a PFC to inform the Agency's decision regarding the need for facility inspections that support assessment of the abbreviated new drug application (ANDA). A complete and accurate PFC allows the Agency to begin the facility assessment process in advance of the planned ANDA submission for priority ANDAs, allowing the Agency more time to make preapproval inspection decisions. A PFC meeting the conditions outlined in the revised draft guidance will qualify the ANDA for a shorter, 8-month priority review goal. This revised draft guidance describes the content, timing, and assessment of a complete and accurate PFC for purposes of GDUFA III. Additionally, this revised draft guidance provides information on the Agency's rationale for and current approach to assessing a PFC and replaces the previous draft guidance for industry, ''ANDAs: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence),'' issued in November 2017.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by March 6, 2023. Submit either electronic or written comments concerning the collection of information proposed in the draft guidance by February 3, 2023.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–3101 for ''ANDAs: Pre-Submission Facility Correspondence Related to Prioritized Generic Drug Submissions.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive

label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Ranjani Prabhakara, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, rm. 6648, Silver Spring, MD 20993, 240–402–4652.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised draft guidance for industry entitled ''ANDAs: Pre-Submission Facility Correspondence Related to Prioritized Generic Drug Submissions.'' This guidance replaces the draft guidance for industry ''ANDAs: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence),'' issued in November 2017.

The PFC is a mechanism under which FDA assesses facility information submitted in a PFC to inform the Agency's decision regarding the need for facility inspections that support assessment of priority ANDAs, prior approval supplements (PASs), PAS amendments, and ANDA amendments (collectively referred to herein as ANDAs). Under the performance goals and program enhancements described in the GDUFA III commitment letter, FDA agreed to a shorter 8-month goal date for action on such priority generic drug submissions if a PFC meets specified conditions.

A complete and accurate PFC allows the Agency to begin the facility assessment process in advance of the planned ANDA submission for priority ANDAs. This lead time provides the Agency the opportunity to determine whether facility inspections will be needed, and, when they are, to initiate inspection planning earlier in the assessment of a priority ANDA, helping the Agency to meet the shorter priority review goal timeframe.

This revised draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The revised draft guidance, when finalized, will represent the current thinking of FDA on ''ANDAs: Pre-Submission Facility Correspondence Related to Prioritized Generic Drug Submissions.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR 314 have been approved under OMB control number 0910–0001. The collections of information in 21 CFR part 210 and 211 (Current Good Manufacturing Practice) have been approved under OMB control number 0910–0139. The collections of information relating to Form FDA 356h have been approved under OMB control number 0910–0338. The collections of information relating to Form FDA 3794 have been approved under OMB control number 0910–0727.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents, or https://www.regulations.gov.*

Dated: November 30, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–26412 Filed 12–2–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2001–D–0197]

Statistical Approaches To Establishing Bioequivalence; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Statistical Approaches to Establishing Bioequivalence.'' This draft guidance provides recommendations to sponsors and applicants planning to use equivalence criteria in analyzing bioequivalence (BE) studies for investigational new drug applications (INDs), new drug applications (NDAs), abbreviated new drug applications (ANDAs), and supplements to these applications. The guidance discusses statistical approaches for BE comparisons and focuses on how to use these approaches both generally and in specific situations. When finalized, this guidance will replace FDA's 2001 guidance for industry of the same name.

DATES: Submit either electronic or written comments on the draft guidance by February 3, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier* (*for written/paper submissions*): Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2001–D–0197 for ''Statistical

Approaches to Establishing Bioequivalence.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: David Coppersmith, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1673, Silver Spring, MD 20993–0002, 301–796–9193.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Statistical Approaches to Establishing Bioequivalence.'' This draft guidance provides recommendations to sponsors and applicants planning to use equivalence criteria in analyzing in vivo or in vitro BE studies for INDs, NDAs, ANDAs, and supplements to these applications. The guidance discusses statistical approaches for BE comparisons and focuses on how to use these approaches both generally and in specific situations.

These specific situations include statistical methods for narrow therapeutic index drugs and highly variable drugs; recommendations for missing data and intercurrent events; and a discussion of statistical methods regarding assessment of in vitro BE, including population BE and statistical approaches for in vitro release tests, in vitro permeation tests, and in vitro abuse-deterrent formulation comparative studies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will replace the guidance for industry entitled ''Statistical Approaches to Establishing Bioequivalence,'' which was announced in the **Federal Register** on February 2, 2001 (66 FR 8805), and will represent FDA's current thinking on this topic.

This draft guidance does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014. The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: November 30, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–26414 Filed 12–2–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3236]

Advisory Committee; Oncologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of Federal advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Oncologic Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Oncologic Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the September 1, 2024, expiration date.

DATES: Authority for the Oncologic Drugs Advisory Committee will expire on September 1, 2024, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: She-Chia Chen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 240–402–5343, *ODAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services and by the General Services Administration, FDA is announcing the renewal of the Oncologic Drugs

Advisory Committee (the Committee). The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer and makes appropriate recommendations to the Commissioner.

The Committee shall consist of a core of 13 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of general oncology, pediatric oncology, hematologic oncology, immunology oncology, biostatistics, and other related professions. Members will be invited to serve for overlapping terms of up to 4 years. Non-Federal members of this committee will serve as Special Government Employees, representatives, or Ex-Officio members. Federal members will serve as Regular Government Employees or Ex-Officios. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting representative member who is identified with industry interests. There may also be an alternate industry representative.

Further information regarding the most recent charter and other information can be found at *https://www.fda.gov/advisory-committees/oncologic-drugs-advisory-committee/oncologic-drugs-advisory-committee-charter* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *https://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: November 29, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–26363 Filed 12–2–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Nurse Corps Scholarship Program—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than February 3, 2023.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the acting HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Nurse Corps Scholarship Program, OMB No. 0915–0301—Extension.

Abstract: The Nurse Corps Scholarship Program (NCSP), administered by the HRSA Bureau of Health Workforce, provides scholarships to nursing students in exchange for a minimum two-year full-time service commitment (or part-time equivalent), at an eligible health care facility with a critical shortage of nurses (*i.e.* Critical Shortage Facility (CSF)). The scholarship consists of payment of tuition, fees, other reasonable educational costs, and a monthly support stipend. Program recipients are required to fulfill NCSP service commitments at CSFs located in the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Need and Proposed Use of the Information: The NCSP collects data to determine an applicant's eligibility for the program, monitor a participant's continued enrollment in a school of nursing, monitor the participant's compliance with the NCSP service obligation, and prepare annual reports to Congress. The following information will be collected (1) from the schools, on a quarterly basis—general applicant and nursing school data such as full name, location, tuition/fees, and enrollment status; (2) from the schools, on an annual basis—data concerning tuition/fees and overall student enrollment status; and (3) from the participants and their employing CSF on a biannual basis—data concerning the participant's employment status, work schedule, and leave usage.

Likely Respondents: NCSP scholars in school, graduates, educational institutions, and CSFs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Eligible Applications/Application Program Guidance	2,600	1	2,600	2.00	5,200
School Enrollment Verification Form	500	4	2,000	.33	660
Confirmation of Interest Form	250	1	250	.20	50
Data Collection Worksheet Form	500	1	500	1.00	500
Graduation Close Out Form	200	1	200	.17	34
Initial Employment Verification Form	500	1	500	.42	210
Employer—Participant Service Verification Form	1,000	2	2,000	.12	240
CSF Verification Form	200	1	200	.20	40
Total	5,750		8,250		6,934

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–26342 Filed 12–2–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2023 Through September 30, 2024

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice.

The Federal Medical Assistance Percentages (FMAP), Enhanced Federal Medical Assistance Percentages (eFMAP), and disaster-recovery FMAP adjustments for Fiscal Year 2024 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 2023 through September 30, 2024. This notice announces the calculated FMAP rates, in accordance with sections 1101(a)(8) and 1905(b) of the Act, that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of Federal matching for State medical assistance (Medicaid), Temporary Assistance for Needy Families (TANF) Contingency Funds, Child Support Enforcement collections, Child Care Mandatory and Matching Funds of the Child Care and Development Fund, Title IV–E Foster Care Maintenance payments, Adoption Assistance payments and Kinship Guardianship Assistance payments, and the eFMAP rates for the Children's Health Insurance Program (CHIP) expenditures. Table 1 gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. This notice reminds States of adjustments available for States meeting requirements for disproportionate employer pension or insurance fund contributions and adjustments for disaster recovery. At this time, no State qualifies for such adjustments, and territories are not eligible.

Programs under title XIX of the Act exist in each jurisdiction. Programs under titles I, X, and XIV operate only in Guam and the Virgin Islands. The percentages in this notice apply to State expenditures for most medical assistance and child health assistance, and assistance payments for certain social services. The Act provides separately for Federal matching of administrative costs.

Sections 1905(b) and 1101(a)(8)(B) of the Act require the Secretary of HHS to publish the FMAP rates each year. The Secretary calculates the percentages, using formulas in sections 1905(b) and 1101(a)(8), and calculations by the Department of Commerce of average income per person in each State and for the United States (meaning, for this purpose, the fifty States and the District of Columbia). The percentages must fall within the upper and lower limits specified in section 1905(b) of the Act. The percentages for the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 States.

Federal Medical Assistance Percentage (FMAP)

Section 1905(b) of the Act specifies the formula for calculating FMAPs as ''Federal medical assistance percentage'' for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum.

Section 1905(b) of the Act further specifies that the FMAPs for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 55 percent. Section 4725(b) of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia, for purposes of titles XIX and XXI, shall be 70 percent. For the District of Columbia, we note under Table 1 that other rates may apply in certain other programs. In addition, we note the rate that applies for Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands in certain other programs pursuant to section 1118 of the Act. Per section 1905(ff) of the Act, as amended by the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023 (Pub. L. 117–180), the territories' FMAP is a higher rate through December 16, 2022. For Puerto Rico, the FMAP is 76 percent and, for the other territories, it is 83 percent. The FMAP for all territories reverts back to 55 percent beginning December 17, 2022, absent Congressional action. The rates for the States, District of Columbia and the territories are displayed in Table 1, Column 1.

Section 1905(y) of the Act, as added by section 2001 of the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) (Pub. L. 111–148), provides for a significant increase in the FMAP for medical assistance expenditures for newly eligible individuals described in section 1902(a)(10)(A)(i)(VIII) of the Act, as added by the Affordable Care Act (the

new adult group); ''newly eligible'' is defined in section 1905(y)(2)(A) of the Act. The FMAP for the new adult group is 100 percent for Calendar Years 2014, 2015, and 2016, gradually declining to 90 percent in 2020, where it remains indefinitely. In addition, section 1905(z) of the Act, as added by section 10201 of the Affordable Care Act, provides that States that offered substantial health coverage to certain low-income parents and nonpregnant, childless adults on the date of enactment of the Affordable Care Act, referred to as ''expansion States,'' shall receive an enhanced FMAP beginning in 2014 for medical assistance expenditures for nonpregnant childless adults who may be required to enroll in benchmark coverage under section 1937 of the Act. These provisions are discussed in more detail in the Medicaid Program: Eligibility Changes Under the Affordable Care Act of 2010 proposed rule published on August 17, 2011 (76 FR 51148, 51172) and the final rule published on March 23, 2012 (77 FR 17144, 17194). This notice is not intended to set forth the matching rates for the new adult group as specified in section 1905(y) of the Act or the matching rates for nonpregnant, childless adults in expansion States as specified in section 1905(z) of the Act.

Section 6008 of the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116–127) as amended by section 3720 of the CARES Act (Pub. L. 116–136), provides a temporary 6.2 percentage point FMAP increase to each qualifying State and territory's FMAP under section 1905(b) of the Act, effective January 1, 2020 and extending through the last day of the calendar quarter in which the public health emergency declared by the Secretary of HHS for COVID–19, including any extensions, terminates. The FY 2023 FMAP rates listed in Table 1 do not include the 6.2 percentage point increase in the FMAP that qualifying States may receive under Section 6008 of the FFCRA (Pub. L. 116–127).

Other Adjustments to the FMAP

For purposes of Title XIX (Medicaid) of the Social Security Act, the Federal Medical Assistance Percentage (FMAP), defined in section 1905(b) of the Social Security Act, for each State beginning with fiscal year 2006, can be subject to an adjustment pursuant to section 614 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111–3. Section 614 of CHIPRA stipulates that a State's FMAP under Title XIX (Medicaid) must be adjusted in two situations.

In the first situation, if a State experiences no growth or positive growth in total personal income and an employer in that State has made a significantly disproportionate contribution to an employer pension or insurance fund, the State's FMAP must be adjusted. The adjustment involves disregarding the significantly disproportionate employer pension or insurance fund contribution in computing the per capita income for the State (but not in computing the per capita income for the United States). Employer pension and insurance fund contributions are significantly disproportionate if the increase in contributions exceeds 25 percent of the total increase in personal income in that State. A **Federal Register** notice with comment period was published on June 7, 2010 (75 FR 32182) announcing the methodology for calculating this adjustment; a final notice was published on October 15, 2010 (75 FR 63480).

The second situation arises if a State experiences negative growth in total personal income. Beginning with Fiscal Year 2006, section 614(b)(3) of CHIPRA specifies that, for the purposes of calculating the FMAP for a calendar year in which a State's total personal income has declined, the portion of an employer pension or insurance fund contribution that exceeds 125 percent of the amount of such contribution in the previous calendar year shall be disregarded in computing the per capita income for the State (but not in computing the per capita income for the United States).

No Federal source of reliable and timely data on pension and insurance contributions by individual employers and States is currently available. We request that States report employer pension or insurance fund contributions to help determine potential FMAP adjustments for States experiencing significantly disproportionate pension or insurance contributions and States experiencing a negative growth in total personal income. See also the information described in the January 21, 2014 **Federal Register** notice (79 FR 3385).

Section 1905(aa) of the Social Security Act, as amended by section 2006 of the Affordable Care Act specifies that the annual FMAP rate shall be increased for a ''disaster-recovery FMAP adjustment [s]tate.'' The statute defines a ''disaster-recovery FMAP adjustment [s]tate'' as one of the 50 States or District of Columbia for which, at any time during the preceding 7 fiscal years, the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act under which every county or parish in the State is eligible for individual and public or public assistance from the Federal Government, and for which the FMAP as determined for the fiscal year is less than the FMAP for the preceding fiscal year by at least three percentage points. This notice does not contain disaster recovery adjustments since no State qualifies as a ''disaster-recovery FMAP adjustment [s]tate.''. See more information described in the December 22, 2010 **Federal Register** notice (75 FR 80501).

Enhanced Federal Medical Assistance Percentage (eFMAP) for CHIP

Section 2105(b) of the Act specifies the formula for calculating the eFMAP rates as the ''enhanced FMAP'', for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a State exceed 85 percent.

The eFMAP rates are used in CHIP under Title XXI, and in the Medicaid program for expenditures for medical assistance provided to certain children as described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the eFMAP rates. We include them in this notice for the convenience of the States (Table 1, Column 2).

DATES: The percentages listed in Table 1 will be applicable for each of the four quarter-year periods beginning October 1, 2023 and ending September 30, 2024.

FOR FURTHER INFORMATION CONTACT: Ann Conmy, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93.596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain

Independence and Employment; 93.778: Medical Assistance Program; 93.767: Children's Health Insurance Program)

Xavier Becerra

Secretary, Department of Health and Human Services.

TABLE 1—FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2023–SEPTEMBER 30, 2024

[Fiscal Year 2024]

State	Federal medical assistance percentages	Enhanced Federal medical assistance percentages
Alabama	73.12	81.18
Alaska	50.01	65.01
American Samoa *	55.00	68.50
Arizona	66.29	76.40
Arkansas	72.00	80.40
California	50.00	65.00
Colorado	50.00	65.00
Connecticut	50.00	65.00
Delaware	59.71	71.80
District of Columbia **	70.00	79.00
Florida	57.96	70.57
Georgia	65.89	76.12
Guam *	55.00	68.50
Hawaii	58.56	70.99
Idaho	69.72	78.80
Illinois	51.09	65.76
Indiana	65.62	75.93
Iowa	64.13	74.89
Kansas	60.97	72.68
Kentucky	71.78	80.25
Louisiana	67.67	77.37
Maine	62.65	73.86
Maryland	50.00	65.00
Massachusetts	50.00	65.00
Michigan	64.94	75.46
Minnesota	51.49	66.04
Mississippi	77.27	84.09
Missouri	66.07	76.25
Montana	63.91	74.74
Nebraska	58.60	71.02
Nevada	60.77	72.54
New Hampshire	50.00	65.00
New Jersey	50.00	65.00
New Mexico	72.59	80.81
New York	50.00	65.00
North Carolina	65.91	76.14
North Dakota	53.82	67.67
Northern Mariana Islands *	55.00	68.50
Ohio	64.30	75.01
Oklahoma	67.53	77.27
Oregon	59.31	71.52
Pennsylvania	54.12	67.88
Puerto Rico *	55.00	68.50
Rhode Island	55.01	68.51
South Carolina	69.53	78.67
South Dakota	54.98	68.49
Tennessee	65.28	75.70
Texas	60.15	72.11
Utah	65.90	76.13
Vermont	56.75	69.73
Virgin Islands *	55.00	68.50
Virginia	51.22	65.85
Washington	50.00	65.00
West Virginia	74.10	81.87
Wisconsin	60.66	72.46
Wyoming	50.00	65.00

* For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI will be 75 per centum.

** The values for the District of Columbia in the table were set for the State plan under titles XIX and XXI and for capitation payments and disproportionate share hospital (DSH) allotments under those titles. For other purposes, the percentage for D.C. is 50.00, unless otherwise specified by law.

[FR Doc. 2022–26390 Filed 12–1–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Council of Councils.

The meeting will be held as a virtual meeting and will be open to the public to attend virtually as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Council of Councils.

Date: January 19–20, 2023.

Open: January 19, 2023, 10:15 a.m. to 3:20 p.m.

Agenda: Call to Order and Introductions; Announcements; NIH Program Updates; Strategic Plans; and Other Business of the Committee.

Place: National Institutes of Health, Building 1, 1 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: January 20, 2023, 10:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate review of Grant Applications.

Place: National Institutes of Health, Building 1, 1 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Open: January 20, 2023, 11:45 a.m. to 2:00 p.m.

Agenda: NIH Program Updates and Other Business of the Committee.

Place: National Institutes of Health, Building 1, 1 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Franziska Grieder, D.V.M., Ph.D., Executive Secretary, Council of Councils, Director, Office of Research Infrastructure Programs, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, 6701 Democracy Boulevard, Room 948, Bethesda, MD 20892, *GriederF@mail.nih.gov*, 301–435–0744.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Council of Council's home page at *http://dpcpsi.nih.gov/council/* where an agenda will be posted before the meeting date.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: November 29, 2022.

David W Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–26346 Filed 12–2–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Assay Validation of Biomarkers.

Date: January 25, 2023.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W106, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W106, Rockville, Maryland 20850, 240–276–7975, *chufanee@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Innovative Molecular Analysis Technologies (IMAT).

Date: January 26, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W236, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shuli Xia, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W236, Rockville, Maryland 20850, 240–276–5256, *shuli.xia@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Transition Career Development Award and Institutional Research Training Grants.

Date: January 26, 2023.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Radiation Oncology-Biology Integration Network (ROBIN) Centers Review.

Date: January 27, 2023.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W640, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Saejeong J. Kim, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W640, Rockville, Maryland 20850, 240–276–7684, *saejeong.kim@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review I.

Date: January 31–February 1, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–276–5007, *tandlea@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review II.

Date: February 2–3, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: John Paul Cairns, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 301–461–0303, *paul.cairns@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI-Pediatric Immunotherapy Network (PIN).

Date: February 14, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W264, Rockville, Maryland 20850, 240–276–7286, *salvucco@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review III.

Date: February 15–16, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W634, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Michael E. Lindquist, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W634, Rockville, Maryland 20850, *mike.lindquist@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–C: NCI Program Project (P01).

Date: February 15–16, 2023.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shree Ram Singh, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–672–6175, *singhshr@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Transition to Independence Study Section (I).

Date: February 15–16, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609, Medical Center Drive, Room 7W602, Rockville, Maryland 20850, 240–276–6456, *tangd@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Pancreatic Cancer Detection Consortium U01.

Date: February 16, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: John Paul Cairns, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609, Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 301–461–0303, *paul.cairns@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Clinical Trials Planning Program.

Date: February 17, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W106, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W106, Rockville, Maryland 20850, 240–276–7975, *chufanee@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) Review SEP–B.

Date: February 21–22, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W618, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Rockville, Maryland 20850, 240–276–6611, *mukesh.kumar3@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review IV.

Date: February 23–24, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W522, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NCI, 9609 Medical Center Drive, Room 7W522, Rockville, Maryland 20850, 240–276–5413, *klaus.piontek@nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Career Development Study Section (J).

Date: February 27–28, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W624, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Tushar Deb, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Rockville, Maryland 20850, 240–276–6132, *tushar.deb@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Review of Research Projects (U01) in Physical Sciences-Oncology.

Date: March 1, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W640, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Saejeong J. Kim, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W640, Rockville, Maryland 20850, 240–276–7684, *saejeong.kim@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) SEP–A.

Date: March 2–3, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850, 240–276–6457, *mh101v@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Adoptive Cellular Therapy Network (Can-ACT).

Date: March 2, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W112, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shari Williams Campbell, D.P.M, MSHS, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W112, Rockville, Maryland 20850, 240–276–7381, *shari.campbell@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–2: NCI Clinical and Translational Cancer Research.

Date: March 3, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850, 240–276–7286, *salvucco@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Global Implementation Science for Equitable Cancer Control.

Date: March 8–9, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850, 240–276–6343, *schweinfestcw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 29, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–26364 Filed 12–2–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroimaging Technologies 2.

Date: December 13, 2022.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mufeng Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–5653, *limuf@nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 29, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–26323 Filed 12–2–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–0022–0045; OMB No. 1660–0098]

Agency Information Collection Activities: Proposed Collection; Comment Request; FEMA Citizen Responder Programs Registration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60 Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, with change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning FEMA's Citizen Responder programs registration. These programs include Community Emergency Response Teams (CERTs) and Citizen Corps Councils.

DATES: Comments must be submitted on or before February 3, 2023.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–0022–0045. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *https://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: Andy Burrows, Branch Chief, Preparedness Behavior Change Branch, Individual and Community Preparedness Division, FEMA, 400 C Street SW, Washington, DC 20024, 202–716–0527, *andrew.burrows@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 Post Katrina Management Reform Act (PKEMRA), codified within Title 6 of the U.S. Code, requires the FEMA Administrator to provide Federal leadership necessary to prepare for, protect against, respond to, recover from or mitigate against a natural disaster, act of terrorism, or other man-made disaster. This responsibility includes planning, training, and building the emergency management profession by building a comprehensive incident management system with Federal, state, and local government personnel, agencies and authorities, and helping the emergency response providers to effectively respond. See 6 U.S.C. 314. As part of this responsibility to help and support emergency response providers, FEMA supports efforts to train and assist in organizing citizen responder programs. With Executive Order 13254, *Establishing the USA Freedom Corps* (67 FR 4869, Feb. 1, 2022) Citizen Corps was launched as a Presidential Initiative on January 29, 2002, with a mission to harness the power of every individual through education, training, and volunteer service to make communities safer, stronger, and better prepared for the threats of terrorism, crime, public health issues, and disasters of all kinds.

Another FEMA Citizen Responder program, the CERT was originally developed and implemented by the Los Angeles City Fire Department in 1985. Since 1993 when this training was made available nationally by FEMA, communities in 28 states and Puerto Rico have conducted CERT training. FEMA supports CERT by conducting or sponsoring Train-the-Trainer and Program Manager courses for members of the fire, medical and emergency management community.

To fulfill its mission, FEMA's Individual and Community Preparedness Division (ICPD) will collect information from Citizen Corps Councils and CERT Programs through the Citizen Responder online registration form. The Citizen Responder registration form will allow FEMA as well as state, local, Tribal and territorial personnel to evaluate whether prospective Councils/CERTs have the support of the appropriate government officials in their area, ensure a dedicated coordinator is assigned to the program, and provide an efficient way to track the effectiveness of the nationwide network of Councils and CERT programs.

Collection of Information

Title: FEMA Citizen Responder Programs Registration.

Type of Information Collection: Extension, with change, of a currently approved information collection.

OMB Number: 1660–0098.

FEMA Forms: FEMA Form FF–008–FY–22–129 (formerly 008–0–25), Citizen Corps Council—CERT Registration.

Abstract: The FEMA Citizen Responder registration form will allow FEMA as well as state, local, Tribal and territorial personnel to evaluate whether prospective Councils/CERTs have the support of the appropriate government officials in their area, ensure a dedicated coordinator is assigned to the program, and provide an efficient way to track the effectiveness of the nationwide network of Councils and CERT programs.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 4,000.

Estimated Number of Responses: 4,000.

Estimated Total Annual Burden Hours: 1,000.

Estimated Total Annual Respondent Cost: $40,610.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $12,777.

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. 2022–25703 Filed 12–2–22; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6325–N–02]

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2022

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on April 1, 2022 and ending on June 30, 2022.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW, Room 10282, Washington, DC 20410–0500, telephone 202–708–5300 (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.*

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the second quarter of calendar year 2022.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have

authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from April 1, 2022 through June 30, 2022. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the second quarter of calendar year 2021) before the next report is published (the third quarter of calendar year 2022), HUD will include any additional waivers granted for the second quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Damon Y. Smith,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development April 1, 2022 Through June 30, 2022

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: The cities of El Monte, California and Pasadena, California requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for Baldwin Rose and Centennial Place, two HOME-assisted projects.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 29, 2022.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone: (202) 708–2684.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: San Mateo County, California requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for the Arroyo Green Apartments, a HOME-assisted project.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: Jemine A. Bryon, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: May 26, 2022.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone: (202) 708–2684.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: San Mateo County, California requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for Kiku Crossing, a HOME-assisted project.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: Jemine A. Bryon, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 29, 2022.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone: (202) 708–2684.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.54(b).

Project/Activity: Projects insured under National Housing Act Section 213 and Section 221(d)(4).

Nature of Requirement: 24 CFR 200.54(b) requires that an agreement acceptable to the Commissioner shall require that funds provided by the mortgagor under requirements of this section must be disbursed in full for project work, material, and incidental charges, and expenses before disbursement of any mortgage proceeds.

Granted by: Julia Gordon, Assistant Secretary for the Office of Housing—FHA Commissioner.

Date Granted: June 30, 2022.

Reason Waived: The partial waiver will allow mortgage proceeds resulting from the initial issuance of a mortgage-backed security guaranteed by the Government National Mortgage Association to be disbursed immediately upon receipt but limited to no more than one half percent (0.5%) of the initially endorsed loan amount for projects insured under National Housing Act Section 213 and Section 221(d)(4) only when the required Borrower equity exceeds the amount of the initial construction draw at closing.

Contact: Willie Fobbs III, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6134, Washington, DC 20410, telephone: (202) 402–6257.

• *Regulation:* 24 CFR 200.73(c).

Project/Activity: Historic South End Apartments, Project No. 023–11684, Boston, Massachusetts.

Nature of Requirement: 24 CFR 200.73(c). The regulation requires that a site contain at least five rental dwelling units [of an FHA insured multifamily housing project] shall be on one site and it is part of other contiguous sites comprised of one marketable manageable real estate entity. Chapter 3 Section 3.1.30 of the MAP Guide permits a project with two or more contiguous parcels of land when the parcels comprise one marketable, manageable real estate entity. The regulation requires that a site contain at least 5 rental dwelling units and reads as follows:

(c) The improvements shall constitute a single project. Not less than five rental dwelling units or personal care units, 20 medical care beds, or 50 manufactured home pads, shall be on one site, except that such limitations do not apply to group practice facilities.

Historic South End Apartments project is a 223(f) refinance to consolidate debt on numerous Brownstone 4-story construction buildings into one loan with FHA mortgage insurance. They are situated around Tremont Street, Shawmut Avenue, and Columbus Avenue in Boston. The 27 sites on 29 land parcels contain 146 apartment units owned by Historic South End Limited Partnership, and located in Boston, Massachusetts. The Lender included in the waiver request a roster of each building's address, parcel, total site count, bedroom count, and configuration. The proposed FHA-insured mortgage amount is $42,000,000, which is $287,671 per unit of exposure. The Historic South End Apartments project is already a participant in the 542 (c) risk share portfolio, under HAP contracts, and a Tax Credit Regulatory Agreement. The owner completed $20 million in repairs and improvements to the property.

Granted by: Lopa P. Kolluri, Principal Deputy Assistant Secretary Office of Housing-Federal Housing Administration.

Date Granted: May 13, 2022.

Reason Waived: The sponsors acquired the most recent addition to Historic South End Apartments in 2013, covering all 146 of the project's units. At or prior to closing, Ownership will consolidate its eleven existing Section 8 HAP Contracts into one HAP Contract and renew that Contract into a new long-term Section 8 Contract. The new Contract will be in effect for 20 years and will include a Preservation Tail that will have an additional 11+ years on it, resulting in an effective term of 31+ years of receiving Project-Based Section 8 subsidies. The HAP Contract will carry an income eligibility requirement, requiring the Owner to rent to households earning no more than 50% of AMI. The HAP renewal request will be submitted to Mass Housing. The Historic South End Apartments preserves much needed affordable housing options for low-income residents in the South End neighborhood and is consistent with the Secretary's goal of maintaining affordable housing for low-income persons.

Contact: Thomas A. Bernaciak, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410, telephone: (202) 402–3242.

• *Regulation:* 24 CFR 219.220(b)(1995).

Project/Activity: Vineville Christian Towers, Macon, GA.

Nature of Requirement: 24 CFR 219.220(b)(1995) requires a Flexible Subsidy Operating Assistance Loan to be repaid in full upon the prepayment/refinance of a Section 236 insured mortgage loan.

Granted by: Vance T. Morris, Associate General Deputy Assistant Secretary for Housing

Date Granted: April 21, 2022.

Reason Waived: Christian Church Homes sold the subject property to Vineville Housing Associates Limited Partnership. The new owner submitted is completing substantial rehabilitation of over $61,000 per unit for 196 units, using new debt financing and Low Income Housing Tax Credits. Given the financing needed to support the rehabilitation, the project owner is unable to pay the remaining balance of the flexible subsidy loan. Instead, as a condition of this waiver, the project owner has extended the project's affordability an additional 20 years from the date of the closing. The Proposed Owner will repay the Flex Sub Loans in the amount of 15% of the cash (non-deferred) developer fee of 470,098. The remaining balance of the Flex Sub Loans will be secured by a Surplus Cash Note. The Proposed Owner will allocate up to 75% of surplus cash on an annual basis to pay down the loan.

Contact: John Ardovini, Transaction Division Director, Office of Recapitalization, Multifamily, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6222, Washington, DC 20410, telephone: (202) 402–3001.

• *Regulation:* 24 CFR 880.205(c).

Project/Activity: Ike Sims Village, Contract Number IL060054010, Chicago, IL

Nature of Requirement: For the purpose of determining the allowable distribution, an owner's equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by HUD at cost certification unless the owner justifies a higher equity contribution by cost certification documentation in accordance with HUD mortgage insurance procedures.

Granted by: Lopa P. Kolluri, Principal Deputy Assistant Secretary—Federal Housing Commissioner.

Date Granted: April 28, 2022.

Reason Waived: The project's rental units are in need of modernization. To accomplish the proposed scope of work, the owner will need to defer part of the total developer fee to cover rehabilitation costs. The Illinois Housing and Development Authority requires the deferred developer fee to be repaid within the 15-year LIHTC compliance period. Absent the waiver, the owner would be limited to paying the deferred developer fee from the current permitted surplus cash, which would require a reduction in the scope of rehabilitation work. This waiver will make possible the recapitalization of the project and is consistent with the Secretary's goal of maintaining affordable housing for low-income persons.

Contact: Tobias Halliday, Director, Office of Asset Management and Portfolio Oversight, Office of Multifamily Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6162, Washington, DC 20410, telephone: (202) 402–2059.

• *Regulation:* 24 CFR 3282.14(b).

Alternative construction of manufactured homes, 1/16/84.

Project/Activity: Regulatory Waiver for Industry-Wide Alternative Construction

Letter for Swinging Exterior Passage Doors (21–IW1–AC).

Nature of Requirement: 24 CFR 3282.14(b), Request for Alternative Construction, requires manufactured housing manufacturers to submit a request for Alternative Construction consideration for the use of construction designs or techniques that do not conform with HUD Standards, to receive permission from HUD to utilize such designs or techniques in the manufacturing process for manufactured homes.

Granted by: Julia R. Gordon, Assistant Secretary for Housing -Federal Housing Commissioner.

Date Granted: June 30, 2022.

Reason Waived: Many manufactured home manufacturers are currently facing shortages in the supply of swinging exterior passage doors that are listed or specifically certified for use in manufactured homes due to COVID–19 pandemic impacts. The major supply line of certified swinging exterior passage doors cannot meet the current and near term future demands of the manufactured housing industry, yet alternative door options are available that provide performance equivalent or superior to that required by the Standards yet cannot be utilized without an Alternative Construction approval. To resolve this matter for the whole industry in an expedient manner while protecting the health and safety of consumers and maintaining durability of the homes, this regulatory waiver was previously granted in May 2021 and renewed December 2021 in order to allow the Office of Manufactured Housing Programs to provide an industry-wide Alternative Construction approval letter that could be used by any manufacturer experiencing supply chain issues for swinging exterior passage doors. The regulatory waiver is good through June 30, 2023.

Contact: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9168, Washington, DC 20410, telephone: (202) 402–5365, *Teresa.L.Payne@hud.gov.*

• *Regulation:* 24 CFR 3282.14(b).

Project/Activity: Regulatory Waiver for Industry-Wide Alternative Construction Letter for Window Standard.

Nature of Requirement: 24 CFR 3282.14(b), Request for Alternative Construction, requires manufactured housing manufacturers to submit a request for Alternative Construction consideration for the use of construction designs or techniques that do not conform with HUD Standards, to receive permission from HUD to utilize such designs or techniques in the manufacturing process for manufactured homes.

Granted by: Julia R. Gordon, Assistant Secretary for Housing -Federal Housing Commissioner Federal Housing Administration.

Date Granted: June 30, 2022.

Reason Waived: Due to ongoing materials shortages affecting the manufactured home industry, it was necessary to extend the Regulatory Waiver initially approved in April 2020 and renewed in December 2020, to allow an alternative window standard to be used for the construction of HUD Code-compliant manufactured homes. This regulatory waiver was granted to allow the Office of Manufactured Housing Programs to provide an industry-wide Alternative Construction approval letter that could be used by any manufacturer experiencing supply chain issues for windows. The regulatory waiver is good through June 30, 2023.

Contact: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Office of Housing, 451 Seventh Street SW, Room 9168, Washington, DC 20410, telephone: (202) 402–5365, *Teresa.L.Payne@hud.gov.*

• *Regulation:* 24 CFR 3282.14(b), Alternative construction of manufactured homes, 1/16/84.

Project/Activity: Regulatory Waiver for Industry-Wide Alternative Construction Letter for Electrical Circuit Breakers for Water Heater Installations.

Nature of Requirement: 24 CFR 3282.14(b), Request for Alternative Construction, requires manufactured housing manufacturers to submit a request for Alternative Construction consideration for the use of construction designs or techniques that do not conform with HUD Standards, to receive permission from HUD to utilize such designs or techniques in the manufacturing process for manufactured homes.

Granted by: Julia R. Gordon, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 30, 2022.

Reason Waived: Many manufactured home manufacturers are currently facing shortages in the supply of 25-ampere (amp), double-pole circuit breaks that are necessary for Rheem brand 4,500-watt, 240-volt water heater installations to conform to HUD's circuit break sizing standards. Alternative circuit breaker options are available that provide performance equivalent or superior to that required by the Standards yet cannot be utilized without an Alternative Construction approval. To resolve this matter for the whole industry in an expedient manner while protecting the health and safety of consumers and maintaining durability of the homes, this regulatory waiver was granted to allow the Office of Manufactured Housing Programs to provide an industry-wide Alternative Construction approval letter that could be used by any manufacturer experiencing supply chain issues for 25-amp circuit breakers to use an alternative electrical circuit breaker size to be used for the construction of HUD Code-compliant manufactured homes through June 30, 2023.

Contact: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9168, Washington, DC 20410, telephone: (202) 402–5365, *Teresa.L.Payne@hud.gov.*

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 982.161(a).

Project/Activity: Wyoming County Housing and Redevelopment Authorities.

Nature of Requirement: 24 CFR 982.161(a) states, in part, that any employee, or any contractor, subcontractor, or agent of the public housing agency (PHA), who formulates policy or influences decisions with respect to the program, may not have any direct or indirect interest in the Housing Assistance Payments (HAP) contract or in any benefits or payments under the contract during tenure or one year thereafter.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 7, 2022.

Reason Waived: The request explained that Richard Wilbur is currently a Wyoming County Commissioner and one of his duties is to vote for the appointment of Board Members at WCHRA. Mr. Wilber currently owns an apartment complex where tenant Yvonne Suzette O'Neill has resided for the past seven years. Ms. O'Neill is a permanently disabled tenant, extremely low-income, and she is having a difficult time paying rent. Ms. O'Neill has been issued a voucher but unable to use it at her current residence because of the conflict-of-interest provision. Mr. Wilbur wanted to assist Ms. O'Neill to maintain her current residence by getting authorization to become an HCV landlord, allowing him to enter a HAP contract with WCHRA. As Commissioner Wilber holds a position as a public official (although not as part of the PHA), if the regulation were not to be waived, this would cause Ms. O'Neill to vacate her long-held residence or forgo the voucher and continue to be rent burdened. Given Ms. O'Neill's difficulty paying rent, she is at risk of eviction. This would present a hardship to the family, but also in consideration of the costs associated with moving, and the uncertainty of finding a unit and of potentially losing the housing assistance. Based on the circumstances of this request, HUD finds there is good cause to waive the requirement.

Contact: Kristen Arnold, Housing Program Specialist, Office of Public Housing and Voucher Programs, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW Washington, DC 20140, telephone: (971) 222–2667.

• *Regulation:* 24 CFR 982.303(b)(1).

Nature of Requirement: Notice PIH 2021–34 Expedited Waivers for the Public Housing and Housing Choice Voucher (including Mainstream and Mod Rehab) Program(s), 24 CFR 982.303(b)(1) allows PHAs to grant a family one or more extensions of the initial voucher term regardless of the policy described in the Administrative Plan. PHAs should ensure consistency with these requests and remain in compliance with the PHA's informally adopted interim standard.

Reason Waived: PHAs were granted the opportunity to apply for certain regulatory waivers that were originally offered as part of the CARES Act waivers in Notice PIH 2021–14 to provide continued flexibility during the

pandemic and pandemic recovery. HUD expeditiously responded to these waiver requests in accordance with Section 106 of the Department and Urban Development Reform Act of 1989.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 1–June 30, 2022.

Project/Activity: Santa Rosa Housing Authority; Housing Authority of the County of Stanislaus; Suisun City Housing Authority; Ocala Housing Authority; Winnebago County Housing Authority; Jeffersonville Housing Authority; Saginaw Housing Commission; Public Housing Agency of the City of St. Paul; Rochester Housing Authority; Ithaca Housing Authority; Allen Metropolitan Housing Authority; Housing Authority of the City of Pittsburgh; Municipality Of Naguabo; South Carolina State Housing Finance and Development Authority, Virginia Beach Housing and Neighborhood Preservation; Benicia Housing Authority; Compton Housing Authority; Hartford Housing Authority; Naugatuck Housing Authority; Collier County Housing Authority; Terre Haute Housing Authority; Cambridge Housing Authority; Benton Harbor Housing Commission; High Point Housing Authority; Greensboro Housing Authority; Durham Housing Authority; Southeastern Community & Family Services; Miami Metropolitan Housing Authority; Columbia County Housing Authority; Municipality Of Gurabo; Hendry County Housing Authority; Springfield Housing Authority; Springfield Metropolitan Housing Authority; Municipality Of Mayaguez; Terrell Housing Department; Fort Walton Beach Housing Authority; Maryland Department of Housing and Community Development; Bremerton Housing Authority; Sauk County Housing Authority; St. Francis County Housing Authority; Housing Authority of the City of Glendale; Cocoa Housing Authority; Milford Housing Authority; Independence Housing Authority; Harrison Housing Authority; South Tucson Housing Authority; Housing Authority of the City of Long Beach; Housing Authority of the City of Madera; Burbank Housing Authority; Open Housing Authority of the City of National City; Middletown Housing Authority; Pompano Beach Housing Authority; Housing Authority of St. Mary's County, Maryland; Old Town Housing Authority; St. Clair Shores Housing Commission; Chatham County Housing Authority; Franklin-Vance-Warren Opportunity; Omaha Housing Authority; Northern Regional Housing Authority; Kingston Housing Authority; Knox Metropolitan Housing Authority; Morrow Metropolitan Housing Authority; Newport Housing Authority; Municipality Of Anasco; Lake City Housing Authority; Housing Authority of Hartsville; Meade County Housing Authority; Lawrence County Housing and Redevelopment Commission; Butte County Housing Authority; Kingsport Housing and Redevelopment; San Antonio Housing Authority; Denton Housing Authority; Tarrant County Housing Assistance Office; Springfield Housing Authority; Madison Housing Authority; Housing Authority of the County of Merced; Andover Housing Authority; Bristol Housing Authority (RI); Morristown Housing Authority; Muskegon Housing Commission; Rhode Island Housing; Hingham Housing Authority.

Contact: Tesia Anyanaso, Program Specialist, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St SW, Washington, DC 20410, telephone: (202) 402–7026.

• *Regulation:* 24 CFR 982.503(a)(3).

Project/Activity: Rochester Housing Authority.

Nature of Requirement: 24 CFR 982.503(a)(3) which provides that the Public Housing Agency (PHA) voucher payment standard schedule shall establish a single payment standard amount for each unit size, and that for each unit size, the PHA may establish a single payment standard amount for the whole Fair Market Rent (FMR) area or may establish a separate payment standard amount for each designated part of the FMR area.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 3, 2022.

Reason Waived: In its request, RHA noted that providing different payment standards for demonstration participants will allow RHA to ensure adequate payment standards in opportunity areas while maintaining enough funding to support its other vouchers. On April 30, 2021, HUD notified RHA of its admission to the mobility demonstration award of funds. Since its admission to the demonstration, RHA has engaged with HUD in the demonstration program planning and design stage. Through this process, on March 3, 2022, RHA notified HUD via email of its intent to adopt Small Area Fair Market Rents (SAFMRs) for various Zip Codes within its jurisdiction that overlap with its opportunity areas for the demonstration. RHA anticipates applying SAFMRs within the basic range for a designated part of the FMR area, in accordance with 24 CFR 982.503(b)(ii). However, to most effectively allocate its funding and maintain a higher number of vouchers in circulation, RHA requests to only apply the SAFMR payment standards to demonstration participants and confirms its need for this waiver.

Contact: Brendan Goodwin, Senior Housing Program Specialist, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW Washington, DC 20140, telephone: (202) 708–0614.

• *Regulation:* 24 CFR 982.503(b).

Nature of Requirement: Notice PIH 2021–34 Expedited Waivers for the Public Housing and Housing Choice Voucher (including Mainstream and Mod Rehab) Program(s), 24 CFR 982.503(b) allows PHAs to establish payment standards up to 120 percent of the fair market rent.

Reason Waived: PHAs were granted the opportunity to apply for certain regulatory waivers that were originally offered as part of the CARES Act waivers in Notice PIH 2021–14 to provide continued flexibility during the pandemic and pandemic recovery. HUD expeditiously responded to these waiver requests in accordance with Section 106 of the Department and Urban Development Reform Act of 1989.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 1–June 30, 2022.

Project/Activity: Housing Authority of Foley; Flagstaff Housing Authority; Suisun City Housing Authority; Ocala Housing Authority; Saginaw Housing Commission; Ithaca Housing Authority; New York City Department of Housing Preservation and Development; Allen Metropolitan Housing Authority; Roosevelt City Housing Authority; Benicia Housing Authority; Hartford Housing Authority; Collier County Housing Authority; Terre Haute Housing Authority; Benton Harbor Housing Commission; Southeastern Community & Family Services, Inc.; Columbia County Housing Authority; Municipality Of Gurabo; Scott County Redevelopment and Housing Authority; Portsmouth Housing Authority; Hendry County Housing Authority; City and County of Honolulu Housing Authority; Delaware County Housing Authority; Springfield Housing Authority; Wadesboro Housing Authority; Bergen County Housing Authority; Watertown Housing and Redevelopment Commission; Terrell Housing Department; Barron County Housing Authority; Winslow Housing Authority; Punta Gorda Housing Authority; Housing Authority of Somerset; New Orleans Housing Authority; Hagerstown Housing Authority; Maryland Department of Housing and Community Development; Union County Housing Authority; Herkimer Housing Authority; The City of New Rochelle Public Housing Authority; Rock Hill Housing Authority; Anderson County Housing Authority; Bremerton Housing Authority; Opelika Housing Authority; Troy Housing Authority; Placer County Housing Authority; Boca Raton Housing Authority; Waukegan Housing Authority; Warsaw Housing Authority; Atchison Housing Authority; Milford Housing Authority; Independence Housing Authority; Mesilla Valley Housing Authority; Town of Southampton Housing Authority; Housing Authority of Lubbock; Burnet Housing Authority; Utah County Housing Authority; Logan City Housing Authority; Bear River Regional Housing Authority; Jasper Housing Authority; Tallassee Housing Authority; Harrison Housing Authority; South Tucson Housing Authority; Oakland Housing Authority; Burbank Housing Authority; Middletown Housing Authority; Ansonia Housing Authority; Vernon Housing Authority; Pompano Beach Housing Authority; Lafayette Housing Authority; Old Town Housing Authority; Kandiyohi County Housing and Redevelopment Authority; McLeod County Housing and Redevelopment Authority; Wilmington Housing Authority; Rocky Mount Housing Authority; Roanoke-Chowan Regional Housing Authority; Omaha Housing Authority; Northern Regional Housing Authority; Kingston Housing Authority; Harrietstown Housing Authority; Peekskill Housing Authority; Logan County Metropolitan Housing Authority; Housing

Authority of the City of Broken Bow; Newport Housing Authority; West Warwick Housing Authority; Coventry Housing Authority; East Greenwich Housing Authority; Municipality Of Anasco; Meade County Housing Authority; Lawrence County Housing and Redevelopment Commission; Butte County Housing Authority; Kingsport Housing and Redevelopment; LaFollette Housing Authority; Brownsville Housing Authority; Housing Authority of Anthony; Central Texas Council of Governments; Cedar City Housing Authority; Grays Harbor Housing Authority; Walla Walla Housing Authority; Madison Housing Authority; Kenosha Housing Authority; Northwest Regional Housing Authority; Plant City Housing Authority; Morristown Housing Authority; Dayton Housing Authority; Bristol Housing Authority (TN); Brenham Housing Authority; New London Housing Authority; Carlsbad Housing Agency; Zanesville Metropolitan Housing Authority; Rhode Island Housing; Richmond Housing Authority.

Contact: Tesia Anyanaso, Program Specialist, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St SW, Room 3180, Washington, DC 20410, telephone: (202) 402–7026.

• *Regulation:* 24 CFR 982.505(c)(4).

Nature of Requirement: Notice PIH 2021–34 Expedited Waivers for the Public Housing and Housing Choice Voucher (including Mainstream and Mod Rehab) Program(s), 24 CFR 982.505(c)(4) allows PHAs to increase the payment standard during the Housing Assistance Payment term.

Reason Waived: PHAs were granted the opportunity to apply for certain regulatory waivers that were originally offered as part of the CARES Act waivers in Notice PIH 2021–14 to provide continued flexibility during the pandemic and pandemic recovery. HUD expeditiously responded to these waiver requests in accordance with Section 106 of the Department and Urban Development Reform Act of 1989.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 1–June 30, 2022.

Project/Activity: Housing Authority of Foley; Housing Authority of the County of Stanislaus; Ocala Housing Authority; Winnebago County Housing Authority; Jeffersonville Housing Authority; Saginaw Housing Commission; Rochester Housing Authority; Wausau Housing Authority; Hartford Housing Authority; Naugatuck Housing Authority; Collier County Housing Authority; Terre Haute Housing Authority; Benton Harbor Housing Commission; East Spencer Housing Authority; Southeastern Community & Family Services; Miami Metropolitan Housing Authority; Municipality of Gurabo; Portsmouth Housing Authority; City and County of Honolulu Housing Authority; City and County of Honolulu Housing Authority; Delaware County Housing Authority; Massachusetts Department of Housing and Community Development; Bergen County Housing Authority; Springfield Metropolitan Housing Authority; Terrell Housing Department; Barron County Housing Authority; Winslow Housing Authority; City of Norwalk Housing Authority; Maryland Department of Housing and Community Development; Biloxi Housing Authority; Beatrice Housing Authority; Coshocton Metropolitan Housing Authority; Bremerton Housing Authority; Opelika Housing Authority; St. Francis County Housing Authority; Cocoa Housing Authority; Mesilla Valley Housing Authority; Town of Southampton Housing Authority; Utah County Housing Authority; Jasper Housing Authority; Tallassee Housing Authority; South Tucson Housing Authority; Middletown Housing Authority; Southwestern Idaho Cooperative Housing Authority; Southwestern Idaho Cooperative Housing Authority; Tell City Housing Authority; Lafayette Housing Authority; St. Clair Shores Housing Commission; Chatham County Housing Authority; Franklin-Vance-Warren Opportunity; Omaha Housing Authority; Kingston Housing Authority; Newport Housing Authority; West Warwick Housing Authority; Municipality Of Anasco; Meade County Housing Authority; Lawrence County Housing and Redevelopment Commission; Butte County Housing Authority; Johnson City Housing Authority; Chattanooga Housing Authority; Kingsport Housing and Redevelopment; LaFollette Housing Authority; Brownsville Housing Authority; Southeast Tennessee Human Resource Agency; Central Texas Council of Governments; Springfield Housing Authority; Grays Harbor Housing Authority; Madison Housing Authority; Clarksburg/Harrison Housing Authority; Housing Authority of the County of Merced; Plant City Housing Authority; Bristol Housing Authority (RI); Morristown Housing Authority; Bristol Housing Authority (TN); Housing Authority of Edgewood; Mobile Housing Authority; Opp Housing Authority; Carlsbad Housing Agency; Zanesville Metropolitan Housing Authority; Columbiana Metropolitan Housing Authority; Waco Housing Authority; Hingham Housing Authority.

Contact: Tesia Anyanaso, Program Specialist, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St SW, Room 3180, Washington, DC 20410, telephone: (202) 402–7026.

• *Regulation:* 24 CFR 982.634(a).

Nature of Requirement: Notice PIH 2021–34 Expedited Waivers for the Public Housing and Housing Choice Voucher (including Mainstream and Mod Rehab) Program(s), 24 CFR 982.634(a) allows PHAs to extend homeownership assistance for one additional year.

Reason Waived: PHAs were granted the opportunity to apply for certain regulatory waivers that were originally offered as part of the CARES Act waivers in Notice PIH 2021–14 to provide continued flexibility during the pandemic and pandemic recovery. HUD expeditiously responded to these waiver requests in accordance with Section 106 of the Department and Urban Development Reform Act of 1989.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 1–June 30, 2022.

Project/Activity: Rochester Housing Authority; New York City Department of Housing Preservation and Development; High Point Housing Authority; Greensboro Housing Authority; Southeastern Community & Family Services; Charleston County Housing Authority; Omaha Housing Authority; Lorain Metropolitan Housing Authority; Madison Housing Authority.

Contact: Tesia Anyanaso, Program Specialist, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St SW, Room 3180, Washington, DC 20410, telephone: (202) 402–7026.

• *Regulation:* 24 CFR 983.53(c), 24 CFR 5.216(b)(2), 24 CFR 5.216(h)(1), 24 CFR 5.218(a), and 24 CFR 5.218(c)(1).

Project/Activity: Vancouver Housing Authority.

Nature of Requirement: 24 CFR 983.53(c) requires that a person may not be admitted to RAD project-based voucher (PBV) project if his/her income would result in a Total Tenant Payment (TTP) greater than the rent for the unit. 24 CFR 5.216(b)(2), 24 CFR 5.216(h)(1), 24 CFR 5.218(a), and 24 CFR 5.218(c)(1) specify that assistance applicants must provide verifying documentation of Social Security number for all members of their household before they may be admitted as participants, and that processing entities must deny the eligibility of applicants who have not yet met the documentation requirements.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 17, 2022.

Reason Waived: Vancouver Housing Authority (VHA) turns away many applicants who are otherwise income eligible because their calculated TTP exceeds the below market RAD rents and as a result, both the VHA and applicants find it cumbersome that families are determined eligible based on income limits and then later turned away once the TTP is known. VHA also provided supplemental evidence to support the waiver. Pursuant to the waiver authority provided at 24 CFR 5.100 and in light of the good cause presented, 24 CFR 983.53(c) is waived so that VHA may admit income-qualified families to RAD PBV-assisted units at the VHA Apartment Homes even if such families require zero assistance at admission. HUD also waives the requirement that applicants present documentation to verify SSNs of each household member prior to admission at Tenny Creek pursuant to a homeless preference. This requirement will be waived for 12 months or until the waiting list is closed, whichever is sooner. However, VHA must comply with the following alternative requirements: (1) Prior to admission, each Tenny Creek resident admitted pursuant to a homeless preference must submit to VHA the complete and accurate SSN assigned to each resident. (2) Within 90 days of admission, each Tenny Creek resident admitted pursuant to a homeless preference must submit to VHA the documentation referred to in 24 CFR 5.216(g)(1) to verify each such SSN. (3) VHA must deny assistance to a Tenny Creek resident admitted pursuant to a homeless

preference if the resident does not meet the applicable SSN documentation and verification requirements as specified in 24 CFR 5.216, as waived by and consistent with the waiver approval letter, within 90 days of admission. (4) VHA must terminate the assistance or terminate the tenancy, or both, of a Tenny Creek resident admitted pursuant to a homeless preference if the resident does not meet the applicable SSN documentation and verification requirements specified in 24 CFR 5.216, as waived by and consistent with the waiver approval letter, within 90 days of admission.

Contact: Daniel Threet, Housing Program Specialist, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4208, Washington, DC 20140, telephone: (202) 708–0164.

• *Regulation:* 24 CFR 983.302(e); 24 CFR 983.302(a)(1).

Project/Activity: Tacoma Housing Authority.

Nature of Requirement: 24 CFR 983.302(e) requires the initial contract year be calculated from the first day of the first calendar month of the Housing Assistance Payment (HAP) contract term and 24 CFR 983.302(a)(1) requires the public housing agency (PHA) to redetermine the rent to owner upon the owner's request.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 10, 2022.

Reason Waived: Tacoma Housing Authority (THA) has not increased contract rents in its PBV program since 2019, and for its RAD PBVs it plans to apply the 2020, 2021, and 2022 OCAF adjustments September 1, 2022, which is after the most recent anniversary date of February 11, 2022. This ensures that each of the 22 properties will not receive a rent increase less than one year from the current annual anniversary of the HAP contract in accordance with 24 CFR 983.302(b)(2). Revising the anniversary dates will only impact rent determinations and there will not be any impact to the current HAP contract terms or expiration dates.

Contact: Kristen Arnold, Housing Program Specialist, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4216, Washington, DC 20140, telephone: (971) 222–2667.

• *Regulation:* 24 CFR 983.301(f)(2)(ii); 24 CFR 982.517.

Project/Activity: Bucks County Housing Authority.

Nature of Requirement: 24 CFR 983.301(f)(2)(ii) requires that the PHA not establish or apply different utility allowance amounts for the PBV program and requires that same PHA utility allowance schedule applies to both the tenant-based and PBV programs. 24 CFR 982.517 requires the public housing agency (PHA) to maintain a utility allowance schedule.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 10, 2022.

Reason Waived: Bucks County Housing Authority (BCHA) has demonstrated that the utility allowance provided under the HCV program would discourage conservation and ultimately lead to inefficient use of HAP funds at the Sellersville Senior Residences.

Contact: Nathaniel Johnson, Senior Housing Program Specialist, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20140, telephone: (202) 402–5156.

• *Regulation:* 24 CFR 984.303(d).

Project/Activity: Virgin Islands Housing Authority.

Nature of Requirement: 24 CFR 984.303(d) requires that the PHA shall, in writing, extend the term of the contract of participation for a period not to exceed two years for any FSS family that requests, in writing, an extension of the contract, provided that the PHA finds that good cause exists for granting the extension. The family's written request for an extension must include a description of the need for the extension.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 22, 2022.

Reason Waived: Virginia Islands Housing Authority has a participant who passed the end date of their two-year extension on November 30, 2020 and was not eligible to graduate at that time because they were not working. This was due to the impact of COVID on the participant's ability to receive medical attention for an injury sustained while on the job. The PHA's FSS Coordinator was on leave from January–July 2021 due to family circumstances and this participant's situation was not addressed. Upon the Coordinator's return, there was confusion regarding to whom the waiver should be submitted, resulting in a delay to a request to HUD.

Contact: Jayme Brown, Director, Community and Supportive Services Division, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 5151, Washington, DC 20140, telephone (202) 402–3624.

• *Regulation:* 24 CFR 984.303(d).

Project/Activity: Housing Authority of the City of Napa.

Nature of Requirement: 24 CFR 984.303(d) requires that the PHA shall, in writing, extend the term of the contract of participation for a period not to exceed two years for any FSS family that requests, in writing, an extension of the contract, provided that the PHA finds that good cause exists for granting the extension. The family's written request for an extension must include a description of the need for the extension.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 22, 2022.

Reason Waived: The Housing Authority of the City of Napa (HACN) has six participants whose original contract extension has ended or is nearing the end. HACN contends that these six participants would have successfully graduated from the FSS program; however, the COVID–19 pandemic prevented them from completing the remaining goals on their Contract of Participation.

Contact: Jayme Brown, Director, Community and Supportive Services Division, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 5151, Washington, DC 20140, telephone: (202) 402–3624.

• *Regulation:* 24 CFR 985.3(h).

Project/Activity: Housing Authority of the County of Chester.

Nature of Requirement: 24 CFR 985.3(h) governs the deconcentration bonus, with regards to the performance indicators that are used to assess PHA Section 8 management.

Granted by: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 11, 2022.

Reason Waived: In **Federal Register** *Notice FR–6191–N–01,* HUD waived this requirement for demonstration sites. HUD's letter to Chester Housing Authority was to confirm they would be adopting the waiver described in the **Federal Register** Notice through its authority at 24 CFR 5.110.

Contact: Brendan Goodwin, Senior Housing Program Specialist, Office of Public Housing and Voucher Programs, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4218, Washington, DC 20140, telephone: (202) 708–0164.

• *Regulation:* 24 CFR 985.105, 24 CFR 985.101.

Nature of Requirement: Notice PIH 2021–34 Expedited Waivers for the Public Housing and Housing Choice Voucher (including Mainstream and Mod Rehab) Program(s), 24 CFR 985.105, 24 CFR 985.101 whereas PHAs with a fiscal year end 3/31/22, 6/30/22, or 9/30/22 may request to waive Section Eight Management Assessment Program (SEMAP) if an indicator declines as a result of operational disruptions and from its adoption of one or more CARES Act waivers.

Reason Waived: PHAs were granted the opportunity to apply for certain regulatory waivers that were originally offered as part of the CARES Act waivers in Notice PIH 2021–14 to provide continued flexibility during the pandemic and pandemic recovery. HUD expeditiously responded to these waiver requests in accordance with Section 106 of the Department and Urban Development Reform Act of 1989.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 1–June 30, 2022.

Project/Activity: Arizona Department of Housing; Santa Rosa Housing Authority; Housing Authority of the County of Stanislaus; Ocala Housing Authority; Central Iowa Regional Housing Authority; Winnebago County Housing Authority; Jeffersonville Housing Authority; Campbellsville Housing Authority; Saginaw Housing Commission; Public Housing Agency of the City of St. Paul; Rochester Housing Authority; New York City

Department of Housing Preservation and Development; Youngstown Metropolitan Housing Authority; Allen Metropolitan Housing Authority; Adams Metropolitan Housing Authority; Municipality Of Naguabo; Columbia Housing Authority; South Carolina State Housing Finance and Development; Benicia Housing Authority; Compton Housing Authority; Collier County Housing Authority; Iowa Northland Regional Housing Authority; Housing Authority of Covington; Benton Harbor Housing Commission; Housing and Redevelopment Authority of Virginia Minnesota; East Spencer Housing Authority; Southeastern Community & Family Services; Utica Housing Authority; Belmont Metropolitan Housing Authority; Berks County Housing Authority; Municipality Of Trujillo Alto; Municipality Of Gurabo; Housing Authority of Myrtle Beach; Scott County Regional Housing Authority; South Metro Housing Options; Burbank Housing Authority; Hendry County Housing Authority; Joliet Housing Authority; Springfield Housing Authority; Dowagiac Housing Commission; Coastal Community Action; Atlantic City Housing Authority; Bergen County Housing Authority; Springfield Metropolitan Housing Authority; Cumberland County Housing Authority; Municipality Of Mayaguez; Housing Authority of Slaton; Bristol Regional Housing Authority; Huntington Housing Authority; Bluefield Housing Authority; Housing Authority of the City of Santa Paula; Paragould Housing Authority; Fort Walton Beach Housing Authority; Muscatine Municipal Housing Agency; Maryland Department of Housing and Community Development; Weston Housing Authority; Penns Grove Housing Authority, Butler Metropolitan Housing Authority; Municipality of Morovis; Municipality of Adjuntas; Bremerton Housing Authority; Sauk County Housing Authority; Opelika Housing Authority; Tuscaloosa Housing Authority; St. Francis County Housing Authority; Housing Authority of the City of Glendale; Milford Housing Authority; Placer County Housing Authority; Jacksonville Housing Authority; Appalachian Foothills Housing Agency Inc.; Independence Housing Authority; New Jersey Department of Community Affairs; Mesilla Valley Housing Authority; Hornell Housing Authority; Charleston County Housing Authority; Logan City Housing Authority; Bear River Regional Housing Authority; Tallassee Housing Authority; Hot Springs Housing Authority; City of Tempe Housing Authority; Housing Authority of the County of Yolo; Housing Authority of the City of Long Beach; Housing Authority of the City of Madera; Middletown Housing Authority; Oskaloosa Municipal Housing Agency; Albia Housing Agency; Southwestern Idaho Cooperative Housing Authority; Greenville Housing Authority; Orange County Housing Authority; Roanoke Chowan Regional Housing Authority; Chatham County Housing Authority; Franklin-Vance-Warren Opportunity; Northern Regional Housing Authority; Kingston Housing Authority; Portsmouth Metropolitan Housing Authority; Lorain Metropolitan Housing Authority; Ironton Metropolitan Housing Authority; Knox Metropolitan Housing Authority; Morrow Metropolitan Housing Authority; Housing Authority of the City of Broken Bow; Housing Authority of the City of Stillwater; Housing Authority of Malheur and Harney Counties; Providence Housing Authority; Newport Housing Authority; Municipality of Carolina; Municipality of Maricao; Municipality of Vega Baja; Lake City Housing Authority; Housing Authority of Hartsville; Meade County Housing Authority; Lawrence County Housing and Redevelopment Commission; Butte County Housing Authority; Denton Housing Authority; Tarrant County Housing Assistance Office; Loudoun County Office of Housing; Springfield Housing Authority; Marinette County Housing Authority; Clarksburg/Harrison Housing Authority; Housing Authority of the City of Statesboro; Springfield Housing Authority; Frederick Housing Authority; Hocking Metropolitan Housing Authority; Bristol Housing Authority (RI); Dayton Housing Authority; Brenham Housing Authority; Housing Authority of the City of San Buenaventura; Carlsbad Housing Agency; Muskegon Housing Commission; Saratoga Springs Housing Authority; Greene Metropolitan Housing Authority; Northeast Oregon Housing Authority; Rhode Island Housing; Idaho Housing and Finance Association; Hingham Housing Authority.

Contact: Tesia Anyanaso, Program Specialist, Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St. SW, Room 3180, Washington, DC 20410, telephone: (202) 402–7026.

[FR Doc. 2022–26413 Filed 12–2–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L14400000.PN0000/LXSITCOR0000/LLWO350000/23X; OMB Control No. 1004–0206]

Agency Information Collection Activities; Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before February 3, 2023.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, Attention PRA Office, 440 W 200 S #500, Salt Lake City, UT 84101; or by email to *BLM_HQ_PRA_Comments@blm.gov.* Please reference Office of Management and Budget (OMB) Control Number 1004–0206 in the subject line of your comments. Please note that the electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Darrin King by email at *daking@blm.gov* or call 202–208–3801. 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 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 the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might 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 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 control number enables the BLM to collect the necessary information to authorize the use of public lands for solar and wind energy, pipelines, and electric transmission lines with a capacity of 100 Kilovolts (kV) or more. This OMB Control Number is currently scheduled to expire on June 30, 2023. The BLM plans to request that OMB renew this OMB Control Number for an additional three years.

Title of Collection: Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development (43 CFR parts 2800 and 2880).

OMB Control Number: 1004–0206.

Form Numbers: SF–299.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses that seek authorization to use public lands for solar or wind energy development, pipelines, or electric transmission lines with a capacity of 100 Kilovolts (kV) or more.

Total Estimated Number of Annual Respondents: 3,042.

Total Estimated Number of Annual Responses: 3,042.

Estimated Completion Time per Response: Varies from 2 to 16 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 47,112.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $2,180,808.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, 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.*).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2022–26396 Filed 12–2–22; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034953; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Beloit College, Logan Museum of Anthropology, Beloit, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Beloit College, Logan Museum of Anthropology (LMA) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from the Moundville archeological site (1TU500), in Tuscaloosa County, Alabama.

DATES: Repatriation of the cultural items in this notice may occur on or after January 4, 2023.

ADDRESSES: Nicolette B. Meister, Beloit College, Logan Museum of Anthropology, 700 College Street, Beloit, WI 53511, telephone (608) 363–2305, email *meistern@beloit.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 LMA. 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 summary or related records held by the LMA.

Description

In 1905 or 1906, two funerary objects were removed from a burial at the Moundville archeological site by Clarence Bloomfield Moore. The LMA has no knowledge concerning the whereabouts of the human remains in the burial. On an unknown date, the LMA acquired these items from Moore. The unassociated funerary objects are one reconstructed and shell tempered Bell Plain ceramic bowl (16097) and a partially reconstructed and incomplete shell tempered Lamar Incised possible duck effigy bowl (16099). The Bell Plain bowl was recovered from the ground north of Mound C and was identified as Vessel No. 4 by Moore. The Lamar Incised bowl was recovered from the ground south of Mound D and were identified as Vessel No. 25 by Moore.

Cultural Affiliation

The cultural items 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: linguistic, oral traditional, geographical, kinship, biological, archeological, historical, and anthropological. In addition, the Native American Graves Protection and Repatriation Review Committee has found, by a preponderance of the evidence, that a cultural affiliation exists between human remains and funerary objects originating from, and adjacent to, the Moundville archeological site (1TU500) and the present-day Muskogean-speaking Indian Tribes. This finding was published in the **Federal Register** on February 1, 2022.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the LMA has determined that:

- The two cultural items objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and Muskogean-speaking Indian Tribes that include the Alabama-Coushatta Tribe of Texas (*previously* listed as Alabama-Coushatta Tribes of Texas); Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress,

Brighton, Hollywood, & Tampa Reservations)); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and The Seminole Nation of Oklahoma.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural items in this notice to a requestor may occur on or after January 4, 2023. If competing requests for repatriation are received, the LMA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The LMA 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 10.8, § 10.10, and § 10.14.

Dated: November 23, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–26373 Filed 12–2–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034954; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: American Numismatic Society, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the American Numismatic Society intends to repatriate a certain cultural item that meets the definition of an unassociated funerary object and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural item was removed from Oregon.

DATES: Repatriation of the cultural item in this notice may occur on or after January 4, 2023.

ADDRESSES: Dr. Gilles Bransbourg, Executive Director, American Numismatic Society, 75 Varick Street, 11th Floor, New York, NY 10013, telephone (212) 571–4470, email *gbransbourg@numismatics.org.*

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 American Numismatic Society. 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 summary or related records held by the American Numismatic Society.

Description

The one cultural item was removed from a Native American grave site in Oregon. In December of 1995, the item arrived at the American Numismatic Society in an anonymous envelope with the text ''Found in an Indian grave in Oregon, with a Northwest Token—From Geo. A. Piper(?) Christmas 1923—Piper's(?) Lincoln token.''

The one unassociated funerary object is a bronze campaign medal or token issued by Scovill Manufacturing Company of Waterbury, Connecticut around 1860. On the obverse is a right-facing bust of Abraham Lincoln and the following text: ''HON. ABRAHAM LINCOLN 1860.'' The reverse depicts two men splitting logs, with a cabin in the background and the accompanying text: ''THE RAIL SPLITTER OF THE WEST.''

After an internal review brought this previously unreported object to light, by email dated February 7, 2022, the Museum informed the Nez Perce Tribe and all Indian Tribes having ancestral associations with the modern state of Oregon, of the discovery of this item in the Museum's collection and its apparent affiliation with a Native American grave. In response, by email dated August 18, 2022, the Nez Perce Tribe requested repatriation of the item. The one unassociated funerary object is an 1860 Abraham Lincoln Campaign Medal.

Cultural Affiliation

The cultural item in this notice is 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: geographical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the American Numismatic Society has determined that:

- The one cultural item described above 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 and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Nez Perce Tribe (*previously* listed as Nez Perce Tribe of Idaho).

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural item in this notice to a requestor may occur on or after January 4, 2023. If competing requests for repatriation are received, the American Numismatic Society must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The American Numismatic Society is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, § 10.10, and § 10.14.

Dated: November 23, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–26374 Filed 12–2–22; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–22–053]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 8, 2022 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 731–TA–1575 and 1577 (Final)(Emulsion Styrene-Butadiene Rubber from Czechia and Russia). The Commission currently is scheduled to complete and file its determinations and views of the Commission on December 27, 2022.
5. Outstanding action jackets: none.

CONTACT PERSON FOR MORE INFORMATION: Tyrell Burch, Management Analyst, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: December 1, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–26520 Filed 12–1–22; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Environmental Monitors with Side-Viewable Illumination and Components Thereof, DN 3657;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Katherine M. Hiner, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Johnson Controls Technology Co. and Johnson Controls Inc. on November 29, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of regarding certain environmental monitors with side-viewable illumination and components thereof. The complainant names as respondents: Price Industries, Inc. of Suwanee, GA and Price Industries Ltd. of Canada. The complainant requests that the Commission issue a permanent exclusion order and cease and desist orders, and impose a bond upon respondent's alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3657'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: November 30, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–26395 Filed 12–2–22; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2022–0011]

Maritime Advisory Committee on Occupational Safety and Health (MACOSH); Charter Renewal

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Renewal of the MACOSH charter.

SUMMARY: The Secretary of Labor (Secretary) has renewed the charter for MACOSH.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

For general information: Ms. Amy Wangdahl, Director, Office of Maritime and Agriculture, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693–2066; email: *Wangdahl.amy@dol.gov.*

SUPPLEMENTARY INFORMATION: The Secretary has renewed the MACOSH charter. The charter will expire two years from its filing date.

MACOSH is established in section 7(d) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 656) to advise, the Secretary of Labor through the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) in order to inform the administration of the OSH Act with respect to the maritime industry. The Assistant Secretary may seek the advice of this Committee on activities related to priorities set by the Agency, including: Worker training, education, and assistance; setting and enforcing standards; and assuring safe and healthful working conditions in the maritime industry.

MACOSH is a non-discretionary advisory committee of indefinite duration, operating in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), its implementing regulations (41 CFR parts 101–6 and 102–3), chapter 1–900 of the Department of Labor Manual Series 3 (Aug. 31, 2020) and OSHA's regulations on Advisory Committees (29 CFR part 1912). Pursuant to FACA (5 U.S.C. App. 2, 14(b)(2)), the MACOSH charter must be renewed every two years.

The new MACOSH charter is available to read or download at *http://www.regulations.gov* (Docket No. OSHA–2022–0011), the federal rulemaking portal. The charter also is available on the MACOSH page on OSHA's web page at *http://www.osha.gov* and at the OSHA Docket Office, N–3653, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–2350. In addition, the charter is available for viewing or download at the Federal Advisory Committee Act Database at *http://www.facadatabase.gov.*

Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 656; 5 U.S.C. App. 2; 29 CFR part 1912a; 41 CFR part 102–3; and Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020).

Signed at Washington, DC, on November 21, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–26371 Filed 12–2–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket Number NASA–2022–0002; NOTICE: (22–097)]

National Environmental Policy Act; Mars Sample Return Campaign

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of the Mars Sample Return (MSR) Campaign Draft Programmatic Environmental Impact Statement (PEIS); notice of public meetings; and request for comments; correction.

SUMMARY: The National Aeronautics and Space Administration (NASA) published a document in the **Federal Register** of November 4, 2022, concerning a notice of availability; notice of public meetings; and request for comments. The location of one of the meetings has changed.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Slaten, National Aeronautics and Space Administration, by electronic mail at *Mars-sample-return-nepa@lists.nasa.gov* or by telephone at 202–258–0016.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 4, 2022, in [FR Doc. 2022–24065], on page 66752, under **DATES**, correct the first bullet to: December 6, 2022, in-person meeting: 6 p.m.–8 p.m. MST (local time) at Brinkman Service Club, 352 South Airport Way, Wendover, UT 84083.

Cheryl Parker,

Program Analyst, NASA Directives and Regulations.

[FR Doc. 2022–26375 Filed 12–2–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–22–0025; NARA–2023–009]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice January 20, 2022.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-22-0025/document.* This is a direct link to the schedules posted in the docket for this notice on *regulations.gov.* You may submit comments by the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov.* On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at *https://www.regulations.gov/faq.*

If you are unable to comment via *regulations.gov,* you may email us at *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Kimberly Richardson, Strategy and Performance Division, by email at *regulation_comments@nara.gov* or at 301–837–2902. For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule.

We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of the Army, Agency-wide, Training Resource Model Information System (TRMIS) Master File (DAA–AU–2019–0023).
2. Department of Homeland Security, U.S. Citizenship and Immigration Services, Border Encounter Enforcement Action Records (DAA–0566–2021–0008).
3. Department of Transportation, Federal Aviation Administration, Airspace Access Program (AAP) System (DAA–0237–2022–0004).
4. Department of Transportation, Federal Aviation Administration,

Cybersecurity Test Facility (CyTF) Records (DAA–0237–2022–0011).

5. Department of Transportation, Federal Aviation Administration, Safety Assurance System (SAS) (DAA–0237–2022–0012).

6. Central Intelligence Agency, Agency-wide, Contingency Plan Records for Agency Personnel (DAA–0263–2022–0006).

7. Central Intelligence Agency, Agency-wide, Non-staff Potential Hire records (DAA–0263–2023–0001).

8. Central Intelligence Agency, Directorate of Support, Incident Case Files (DAA–0263–2022–0008).

9. Federal Communications Commission, Agency-wide, Robocall Mitigation Database (DAA–0173–2021–0020).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2022–26400 Filed 12–2–22; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities (NEH) will hold one additional videoconference meeting of the Humanities Panel, a federal advisory committee, in November 2022 and fifteen meetings, by videoconference, of the Humanities Panel during December 2022. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5 p.m. on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. Date: November 30, 2022

This video meeting will discuss applications on the topic of Museums, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

2. Date: December 1, 2022

This video meeting will discuss applications on the topic of U.S. History (Regional, State, and Local), for the Humanities Connections and Reference Resources grant program, submitted to the Division of Preservation and Access.

3. Date: December 1, 2022

This video meeting will discuss applications for Cooperative Agreements and Special Projects, submitted to the Division of Preservation and Access.

4. Date: December 2, 2022

This video meeting will discuss applications on the topic of U.S. History (Pre-1900), for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

5. Date: December 5, 2022

This meeting will discuss applications on the topics of History and Culture, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

6. Date: December 5, 2022

This video meeting will discuss applications for the Dynamic Language Infrastructure-Documenting Endangered Languages Fellowships grant program, submitted to the Division of Research Programs.

7. Date: December 6, 2022

This video meeting will discuss applications for the Dialogues on the Experience of War grant program, submitted to the Division of Education Programs.

8. Date: December 6, 2022

This video meeting will discuss applications on the topics of Libraries and Archives, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

9. Date: December 7, 2022

This video meeting will discuss applications on the topic of Museums, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

10. Date: December 7, 2022

This video meeting will discuss applications for the Dialogues on the Experience of War grant program, submitted to the Division of Education Programs.

11. Date: December 8, 2022

This video meeting will discuss applications on the topics of History and Culture, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

12. Date: December 9, 2022

This video meeting will discuss applications on the topics of Libraries and Centers, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

13. Date: December 9, 2022

This video meeting will discuss applications for the Fellowship Programs at Independent Research Institutions grant program, submitted to the Division of Research Programs

14. Date: December 12, 2022

This video meeting will discuss applications on the topic of Museums, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

15. Date: December 13, 2022

This video meeting will discuss applications on the topic of Digital Infrastructure, for the Infrastructure and Capacity Building Challenge Grants, submitted to the Office of Challenge Programs.

16. Date: December 16, 2022

This meeting will discuss applications on the topic of Higher Education, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chair's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: November 29, 2022.

Jessica Graves,

Legal Administrative Specialist, National Endowment for the Humanities.

[FR Doc. 2022–26317 Filed 12–2–22; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board (NSB) hereby gives notice of a change in a previously scheduled meeting for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 87 FR 73050, November 28, 2022.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, December 1, 2022, the session beginning at 12:30 p.m.–2:40 p.m. EST.

CHANGES IN THE MEETING: There is one new agenda item. It is: Discussion and vote on establishing a commission to reexamine merit review policy and implementing policies. This item will occur after the Committee Report by the Committee on Oversight.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703/292–7000.

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2022–26462 Filed 12–1–22; 11:15 am]

BILLING CODE P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m., Thursday, December 15, 2022.

PLACE: 1255 Union Street NE, Fifth Floor, Washington, DC 20002.

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: Regular Board of Directors 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 Report from CEO
IV. Executive Session: Report from CFO
V. Executive Session: General Counsel Report
VI. NeighborWorks Compass Update
VII. Action Item Approval of Minutes
VIII. Discussion Item November 18, 2022 Audit Committee Report
IX. Discussion Item Future of NeighborWorks Training
X. Discussion Item Report from CIO
XI. Discussion Item DC Office Relocation Update
XII. Management Program Background and Updates
XIII. Adjournment

PORTIONS OPEN TO THE PUBLIC: Everything except the Executive Session.

PORTIONS CLOSED TO THE PUBLIC: Executive Session.

CONTACT PERSON FOR MORE INFORMATION: Lakeyia Thompson, Special Assistant, (202) 524–9940; *Lthompson@nw.org.*

Lakeyia Thompson,

Special Assistant.

[FR Doc. 2022–26456 Filed 12–1–22; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of December 5, 12, 19, 26, 2022, January 2, 9, 2023. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of December 5, 2022

Tuesday, December 6, 2022

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Celimar Valentin-Rodriguez: 301–415–7124)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Thursday, December 8, 2022

9:00 a.m. Overview of Advanced Reactor Fuel Activities (Public Meeting) (Contact: Stephanie Devlin-Gill, 301–415–5301)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of December 12, 2022—Tentative

Wednesday, December 14, 2022

10:00 a.m. Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business (Public Meeting) (Contact: Larniece McKoy Moore: 301–415–1942)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of December 19, 2022—Tentative

There are no meetings scheduled for the week of December 19, 2022.

Week of December 26, 2022—Tentative

There are no meetings scheduled for the week of December 26, 2022.

Week of January 2, 2023—Tentative

There are no meetings scheduled for the week of January 2, 2023.

Week of January 9, 2023—Tentative

There are no meetings scheduled for the week of January 9, 2023.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: November 30, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2022–26428 Filed 12–1–22; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499; NRC–2022–0206]

STP Nuclear Operating Company; South Texas Project, Units 1 and 2

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) under the National Environmental Policy Act of 1969 (NEPA) and NRC's regulations. This EA summarizes the results of the NRC staff's environmental review, which evaluates the potential environmental impacts of approving an alternate disposal request in response to a request from STP Nuclear Operating Company (STPNOC) for Renewed Facility Operating Licenses NPF–76 and NPF–80 for South Texas Project, Units 1 and 2 (STP). Specifically, the alternate disposal request, if approved, would allow the licensee to dispose of very-low-level waste (VLLW) generated during day-to-day operations at the STP reactor site at Texas Class 1 or Class 2 industrial landfills.

DATES: The EA and FONSI referenced in this document are available on December 5, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0206 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–2022–0206. 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 provide in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Galvin, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6256, email: *Dennis.Galvin@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering the approval of an alternate disposal request, dated November 4, 2021, as supplemented by letters dated December 3, 2021, August 19, 2022, and November 22, 2022, from STPNOC for waste material containing VLLW generated during day-to-day operations at the STP reactor site, located in Matagorda County, Texas, for ultimate disposal at Texas Class 1 or Class 2 industrial landfills.[1] The August 19, 2022, STPNOC letter was in response to the NRC request for information, dated July 20, 2022. The term ''VLLW'' is generally understood as material created during the conduct of NRC- or Agreement State-licensed activities that contains some residual radioactivity, including naturally occurring radionuclides, that may be safely disposed in hazardous or municipal solid waste landfills. VLLW represents a small fraction of the hazard of waste at the Class A limits in Part 61 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for Land Disposal of Radioactive Waste.''

NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' dated June 2013 (hereafter, the Generic Environmental Impact Statement or GEIS), Section 3.1.4.3, ''Solid Radioactive Waste,'' addresses solid low-level waste (LLW) as follows:

> Solid [LLW] from nuclear power plants is generated from the removal of radionuclides from liquid waste streams, filtration of airborne gaseous emissions, and removal of contaminated material from various reactor areas. Liquid contaminated with radionuclides comes from primary and secondary coolant systems, spent fuel pools, decontaminated wastewater, and laboratory operations.
>
> Solid waste is packaged in containers to meet the applicable requirements of [Department of Transportation's regulations at] 49 CFR parts 171 through 177. Disposal and transportation are performed in accordance with the NRC's applicable requirements of 10 CFR part 61 and 10 CFR part 71, respectively.
>
> Solid radioactive waste generated during operations is shipped to a LLW processor or directly to a [10 CFR part 61] LLW disposal site.

As noted in Supplement 48 to NUREG–1437, ''Generic Environmental Impact State for License Renewal, Supplement 48: Regarding South Texas Project, Units 1 and 2'' dated November 2013 (hereafter, the Supplemental Environmental Impact Statement or SEIS), the SEIS generated as part of the STP license renewal process,[2] a solid waste processing system is maintained onsite at STP designed to process, package, and store solid radioactive wastes generated by plant operations until they are shipped offsite to a vendor for further processing or for permanent disposal at a 10 CFR part 61 LLW disposal facility.

The waste being considered in the licensee's alternate disposal request includes dewatered sewage sludge, ion exchange media, desiccant, ventilation filtration media, and soil that originated from the secondary side of plant operations. Rather than disposal at a 10 CFR part 61 LLW disposal site, the licensee is requesting approval to dispose of the waste at Texas Class 1 or

[1] Texas Class 1 or Class 2 industrial landfills refer to landfills permitted to accept Class 1 or Class 2 waste as defined by Texas regulations in 30 Texas Administrative Code 335 Subchapter R.

[2] The license was renewed on September 28, 2017.

Class 2 industrial landfills in accordance with 10 CFR 20.2002, ''Method for obtaining approval of proposed disposal procedures.''

In accordance with NRC guidance outlined in All Agreement States letter Office of Federal and State Materials and Environmental Management Programs (FSME)–12–025, ''Clarification of the Authorization for Alternate Disposal of Material Issued Under 10 CFR 20.2002 and Exemption Provisions In 10 CFR,'' dated March 13, 2012, and Regulatory Information Summary–2016–11, ''Requests to Dispose of Very Low-Level Radioactive Waste Pursuant to 10 CFR 20.2002,'' dated November 13, 2016, approval of the requested action requires authorization from both the NRC and the State of Texas. In order to release the waste from the NRC license and allow it to be disposed in accordance with the request, a review must be performed by the NRC as the regulatory agency that issued the license. Texas, which is an NRC Agreement State, maintains the regulatory authority over the Class 1 and Class 2 industrial landfills being considered for the disposal of the waste in question and, thus, maintains responsibility for approving the disposal of the requested waste and ensuring that the disposal actions are performed in accordance with regulations described in the Texas Administrative Code (TAC).[3]

The requested action of releasing the waste from the licensee's authority is a licensing action and, per NRC requirements in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' this action requires an evaluation of environmental impacts associated with the requested action. The NRC staff has prepared this EA [4] in accordance with NRC requirements in 10 CFR 51.21, ''Criteria for and identification of licensing and regulatory actions requiring environmental assessments,'' and 51.30, ''Environmental assessment,'' and with the associated guidance in NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS [the Office of Nuclear Material Safety and Safeguards] Programs,'' dated August 2003, and the Office of Nuclear Reactor Regulation (NRR) Office Instruction LIC–203, ''Procedural Guidance for Categorical Exclusions, Environmental Assessments, and Considering Environmental Issues,'' dated July 2020. This EA evaluates the licensee's requested action of releasing the waste which is regulated by the NRC and the connected action [5] of transporting the waste for disposal at an industrial landfill, which is regulated by Texas.

II. Environmental Assessment

Description of the Proposed Action

The proposed action consists of the licensee's 10 CFR 20.2002 alternate disposal request to release the VLLW waste generated from STP waste management operational activities and disposing of it at an existing Texas Class 1 or Class 2 industrial landfill. Per established procedures and in compliance with NRC regulations, the licensee would continue onsite operations related to the processing, packaging, and shipping of the VLLW offsite, which are described in Section 11.4, ''Solid Waste Management System,'' of the STP Updated Final Safety Analysis Report. For example, waste is held, pending transport, in the STP Environmental Yard as described in plant procedures for packaging and shipment of waste materials, as discussed in the STPNOC letter, dated December 3, 2021. No additional construction activities or operational changes at STP are required to prepare the waste onsite for transportation and for ultimate disposal, as discussed in the STPNOC letter, dated August 19, 2022.

The proposed action, which involves annual shipments of approximately 51 cubic meters (m^3) per year of material, results in individual shipping volumes ranging from 4.25 m^3 to 10.2 m^3 per shipment depending on the number of shipments. These volumes are minimal relative to annual volumes being disposed at Texas Class 1 or Class 2 industrial landfills. For example, according to the STPNOC 2020 annual radioactive effluent release report, the licensee disposed of a total of 59.6 m^3 of VLLW at the Blue Ridge Landfill. A review of the Texas Commission on Environmental Quality (TCEQ) reports, ''Municipal Solid Waste in Texas: A Year in Review, 2019 Data Summary and Analysis'' and ''Municipal Solid Waste in Texas: A Year in Review, 2020 Data Summary and Analysis,'' indicated that the Blue Ridge Landfill received and disposed of approximately 1,300,000 m^3 of similar material in the 2020 reporting year.

The waste would be transported per Department of Transportation regulations to Texas Class 1 or Class 2 industrial landfills authorized to accept the material. The material being considered for disposal in the requested action will be shipped from STP to the industrial landfill in B–25 boxes or 55-gallon drums on trucks or, in some cases, vacuum trucks. Upon arrival at the landfill, disposal actions will be performed in accordance with established procedures and consistent with Texas regulations. Texas would maintain oversight and regulatory authority of the disposal actions related to the proposed action.

Need for the Proposed Action

The purpose and need for the proposed action are to authorize a safe and appropriate method for disposing of material containing VLLW generated during operations at STP. The proposed action would expand the licensee's options for dispositioning this VLLW, allowing disposal at Texas Class 1 or Class 2 industrial landfills, as well as at a 10 CFR part 61 LLW disposal site. Approval of the proposed action would allow the specified waste generated during operations to be sent to industrial landfills permitted by Texas to receive the waste for disposal and allow STP to continue operation. The proposed action would also satisfy the regulatory requirements regarding the disposal of VLLW in accordance with NRC regulations as noted in the NRC's letter to STPNOC, dated August 10, 2021.

Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered the no-action alternative in which the NRC staff would deny the disposal request. Denial of the request would require STP to dispose of the VLLW at a 10 CFR part 61 LLW disposal site or submit an alternate disposal request that considers another option for disposing of the material.

Affected Environment Including Environmental Characteristics

The affected environment of the facilities and processes associated with the onsite waste management activities

[3] Specific regulations can be found at: *https://www.sos.state.tx.us/tac/index.html.*

[4] In 10 CFR 51.14, ''Definitions,'' an EA is defined as ''a concise public document for which the Commission is responsible that serves to: (1) [b]riefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact; (2) [a]id the Commission's compliance with NEPA when no environmental impact statement is necessary; and (3) [f]acilitate preparation of an environmental impact statement when one is necessary.''

[5] Connected actions are actions that are closely related and therefore should be discussed in the same assessment. Actions are connected if they: (i) Automatically trigger other actions that may require environmental impact statements; (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously; or (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

at STP is described in Chapter 2, ''Affected Environment,'' of the SEIS.

The environmental characteristics would be expected to vary among approved Texas Class 1 or Class 2 industrial landfills due to their locations and modes of operation. Texas is responsible for approving the construction of landfills within the state and overseeing their operations. Specifically, Texas regulations in TAC Title 30 Chapter 330, ''Municipal Solid Waste,'' which address siting, construction, and operations of specific landfills, consider the environmental characteristics of individual landfills at the time of permitting.

Ideally for the licensee, due to increase cost for transportation and radiological risk, the landfill selected for disposal would be close to the STP site in Matagorda County, Texas. Therefore, the affected environment described for the STP SEIS, specifically Chapter 2, ''Affected Environment,'' could be similar to the selected landfill affected environment. In addition, the NRC staff considered the affected environment for a landfill (1) located close to the STP site in Matagorda County, (2) known to have been used previously by STP (*i.e.,* Blue Ridge Landfill), and (3) located outside of Matagorda County.

If the licensee chooses a landfill that is outside of Matagorda County, it makes sense that the selected landfill would be a short distance from STP in order to minimize potential transportation and radiological impacts. In the past, STP has disposed of waste at Blue Ridge Landfill located in Fresno, Texas (Fort Bend County). In addition, several neighboring counties surrounding Matagorda County have operating landfills (*e.g.,* Fort Bend, Brazoria, Wharton, and Jackson).

Several Federal and State agencies have prepared environmental impact statements (EISs) for their proposed actions, which include a description of the affected environment in these counties, including ''U.S. Department of Energy W.A. Parish Post-Combustion CO_2 Capture and Sequestration Project Final Environmental Impact Statement.'' The W.A. Parish EIS describes the affected environment of Fort Bend County (which is where the Blue Ridge Landfill is located) covering the resource areas of air quality and climate (Section 3.2); geology, soils, and land use (Sections 3.4, 3.5 and 3.11); water resources (Sections 3.6, 3.7 and 3.8); ecological resources (Section 3.9); cultural resources (Section 3.10); traffic and transportation (Section 3.12); and socioeconomics (Section 3.18).

Should STP choose a landfill besides Blue Ridge Landfill which is located outside of Matagorda County, the W.A. Parish EIS also describes the previously mentioned affected resources areas in Jackson County, Brazoria, or Wharton Counties.

Environmental Impacts of the Proposed Action

This section identifies and evaluates the anticipated environmental impacts associated with implementing the proposed action. This includes consideration of the actions performed at STP, the transportation of the material to the selected Texas Class 1 or Class 2 industrial landfill, and impacts related to the actions performed at the industrial landfill.

The first part of the proposed action considered waste management operational tasks previously evaluated and approved by the NRC as part of the STP license renewal. Impacts to STP from these waste management operational tasks are documented in Chapter 2, ''Alternatives Including the Proposed Action,'' of the GEIS and Chapter 4.0, ''Environmental Impacts of Operation,'' and Chapter 6.0, ''Environmental Impacts of the Uranium Fuel Cycle, Waste Management, and Greenhouse Gas Emissions,'' of the SEIS. Specially, these specific sections discuss impacts of STP operational activities, including waste management, which impact the affected environment:

- Sections 4.1 and 4.11 of the SEIS evaluate impacts to land use, geology, and soils. The impacts would be small.
- Sections 4.3 and 4.4 of the SEIS evaluate impacts to water resources. The impacts would be small.
- Sections 4.5–4.7 of the SEIS evaluate impacts to ecological resources. The impacts would be small.
- Section 4.2 of the SEIS evaluates impacts to air quality. The impacts would be small.
- Section 4.9 of the SEIS evaluates impacts to socioeconomic issues including to noise and visual aesthetics, housing, public services, and historical and archeological resources. The impacts would be small.
- Section 4.9.7 of the SEIS addresses environmental justice. The NRC staff has determined that there would be no disproportionately high and adverse impacts to these populations from the continued operation of STP during the license renewal period.
- Section 4.8 of the SEIS evaluates license renewal impacts to overall human health and concludes that the impacts would be small to moderate. However, as noted in the following bullet, specific impacts related to waste management activities were identified as being small.
- Section 4.11.1.1 of the GEIS and Section 6.1 of the SEIS evaluate waste management activities. The impacts from LLW storage and disposal would be small.

The NRC staff did not identify any new or significant information related to waste management operational activities being performed at STP if the alternate disposal request is approved, which were not considered in the GEIS and SEIS and which would result in changes to the findings or conclusions of their impact analysis.

Transportation of the waste for disposal was evaluated as part of the STP renewal in Section 4.11.1.1 of the GEIS. In the GEIS, the impact of LLW storage and disposal is considered small. The waste in the GEIS is transported from the nuclear power plant to a 10 CFR part 61 LLW disposal site. In this case, the nearest 10 CFR part 61 LLW disposal site would be over 500 miles away. Therefore, the impact assessment of the GEIS would bound the analysis of transporting from the STP site to a local landfill in one of the surrounding counties (*i.e.,* the landfill would be less than 500 miles). The Department of Transportation regulations govern the transport of radioactive material by truck on public highways. The NRC staff evaluated the risk to human health from the transportation of all radioactive material in the U.S. in NUREG–0170, ''Final Environmental Statement on the Transportation of Radioactive Materials by Air and Other Modes,'' December 1977). The principal radiological environmental impact during normal transportation by trucks is direct radiation exposure to transport workers and nearby persons from radioactive material in the package. The average annual individual dose from all radioactive material transportation in the U.S. was calculated as approximately 0.005 millisievert (mSv) per year (0.5 millirem (mrem) per year), well below the 10 CFR 20.1301, ''Dose limits for individual members of the public,'' limit of 1 mSv per year (100 mrem per year) for a member of the public.

Regarding the second part of the proposed action (*i.e.,* disposal at Texas Class 1 or Class 2 industrial landfills), Texas regulations permit Class 1 and Class 2 industrial landfills to accept waste exempt by rule for disposal. The exempt waste is defined as waste with radionuclide content that meets the concentration or activity limits in 25 TAC 289.251(l)(1) and 25 TAC 289.251(l)(2), respectively, in accordance with 25 TAC § 289.251(e)(1) and 25 TAC § 289.251(e)(2). Since the

permit provided by Texas for the construction of landfills requires a discussion of the total amount of material that will be disposed of at the landfill and consideration of the construction of cells or facilities, there would be no additional environmental impacts or significant operational changes when accepting exempted waste. The proposed action would be part of Texas permitted waste management operational activities at the landfill and if the disposal operator complies with the Texas regulations, there would be minimal impacts from the proposed action. Specific impacts related to the disposal of 5–12 shipments of VLLW from STP at Texas Class 1 or Class 2 industrial landfills are addressed in the following subsections.

Land Use, Geology, and Soils

Regulatory requirements related to potential impacts to these resource areas are overseen by TCEQ in accordance with Texas regulations, including TAC Title 30 Rule 330.61(g), ''Land-use map,'' TAC Title 30 Rule 330.61(h), ''Impact on surrounding area,'' and TAC Title 30 Rule 330.61(j), ''General geology and soils statement.'' These regulations discuss specific details an owner or operator requesting a permit for a landfill must include in their application in order to identify potential land use, geology, and soils impacts, as well as how the landfill may impact surrounding cities, communities, groups, and individuals. Provided the landfill permit is approved in accordance with these regulations and the landfill remains in compliance with the operational regulations in TAC Title 30 Chapter 30 Subchapter D, ''Operational Standards for Municipal Solid Waste Landfill Facilities,'' the NRC staff does not expect the proposed action to significantly impact land use, geology, or soils.

Transportation

Offsite transportation impacts from the shipment of VLLW to Texas Class 1 or Class 2 industrial landfills may vary due to distances and routes travelled. Transportation of VLLW would be in accordance with Department of Transportation's regulations. Any onsite transportation of VLLW at the landfill is expected to be in accordance with Texas regulations. Considering the number of shipments (*i.e.,* 5–12 per year), the proposed action would have no significant transportation impacts.

Water Resources

Regulatory requirements related to potential impacts to water resources, including surface water and groundwater at industrial landfills are overseen by TCEQ in accordance with TAC Title 30 Chapter 330. These include the regulation of drainage options, liner system design and operation, groundwater sampling and monitoring, as well as closure and post-closure requirements. Therefore, provided that the landfill remains in compliance with Texas regulations, the NRC staff does not expect the proposed action to significantly impact water resources on and around the site.

Ecological Resources

Potential impacts to ecological resources from the proposed action at Texas Class 1 or Class 2 industrial landfills and associated lands are site-specific as disposal site locations range from urban to rural landscapes. Texas permitting requirements, including TAC Title 30 Rule 330.157, ''Endangered Species Protection''; TAC Title 30 Rule 330.61(n), ''Endangered or Threatened Species''; TAC Title 30 Rule 330.23, ''Relationships with other Governmental Entities,'' (h), ''Texas Parks and Wildlife Department (TPWD)''; and TAC Title 30 Rule 330.61(m), ''Floodplains and wetlands statement,'' are considered by Texas when approving the use of land for a landfill. Therefore, provided that the landfill remains in compliance with Texas regulations, the NRC staff does not expect the proposed action to significantly impact the ecological resources on and around the site. The proposed action does not involve the development or disturbance of additional land. Hence, the NRC staff has determined that the proposed action will not affect listed endangered or threatened species or their critical habitat.

Air Quality

Regulatory requirements and oversight of potential impacts from the proposed action at the landfill are overseen by Texas in accordance with multiple rules identified in TAC Title 30 Chapter 330. Considering the number of shipments and small volumes associated with the proposed action and provided that the landfill remains in compliance with Texas regulations, the NRC staff does not expect the proposed action to significantly impact the air quality on and around the site.

Socioeconomics

The regulations discussed in TAC Title 30 Rule 330.57(d), ''Required Information,'' ensure that the operation of disposal sites permitted by Texas pose no reasonable probability of adversely affecting the health, welfare, environment, or physical property of nearby residents and property owners. In addition, Texas regulations in TAC Title 30 Rule 330.61 require that applicants requesting a permit for a municipal solid waste landfill include documentation of surrounding historical structures and sites that may be impacted by the existence of the landfill or disposal operations that would occur on the site. Considering the number of shipments and small volume of VLLW, the proposed action would have no significant socioeconomic impact.

Waste Management

Waste management activities at Texas Class 1 or Class 2 industrial landfills are conducted in compliance with TAC Title 30 Chapter 330. Therefore, considering the number of shipments and small volume of VLLW, the proposed action would not significantly impact waste management activities at the landfills.

Public and Occupational Human Health

The NRC staff does not expect the proposed action to significantly impact public and occupational health on or near landfills. Texas landfill regulatory requirements were established to minimize exposures to workers and members of the public. Doses calculated using the proposed STP Administrative Concentration Limits provided by the licensee confirmed that doses associated with the transport and disposal would be less than 2 mrem per year. Therefore, the proposed action would not significantly impact public and occupational health.

Environmental Justice

Existing Texas Class 1 and Class 2 industrial landfills are located in a variety of environmental settings, including urban, suburban, and rural locations. As previously noted, Texas permitting regulations, TAC Title 30 Rule 330.61(h) require information regarding how a landfill may impact surrounding cities, communities, groups, and individuals. In accordance with this regulation, the NRC staff does not expect the proposed action to have a noticeable effect on populations near Texas Class 1 or Class 2 industrial landfills. Thus, because the Texas regulations aim to minimize impacts to human health and environment and considering the number of shipments (*i.e.,* 5–12 per year), the proposed action is not expected to result in disproportionately high and adverse human health and environmental effects on minority or low-income populations near these landfills.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered the no-action alternative in which the NRC would deny the alternate disposal request. The portion of the proposed action performed at STP is part of the current waste management operational activities and thus, would not be impacted by denying the alternate disposal request. As previously noted, since STP does not maintain the ability to store this material onsite for a long period of time and Texas does not have the authority to approve the disposal of material outside of their state, denial of the request would require the licensee to transport the material to a 10 CFR part 61 LLW disposal site (*e.g.,* Waste Control Specialists LLC).

Multiple Class 1 and Class 2 industrial landfills are located in the counties surrounding the STP site while the nearest 10 CFR part 61 LLW disposal site is located more than 500 miles from the site. Thus, pursuing this alternative would change the location in which the material is disposed, while other factors related to the disposal of the material would be expected to be similar to the proposed action.

Cumulative Impacts

Section 4.13.11 of the GEIS evaluated the cumulative impacts from STP waste management operational activities and found the impacts to be minimal. Regarding disposal at the landfills, given the occasional nature of these activities, the small amounts of waste to be disposed, and the expected limited number of workers needed to perform the disposal actions, the NRC staff considers the cumulative impacts of landfill activities, when added to existing activities, to be minimal.

Agencies and Persons Consulted

On November 17, 2022, the NRC staff consulted with the TCEQ by providing a draft of the EA for review and comment. By email dated November 28, 2022, TCEQ provided comments regarding the use of VLLW versus waste that has been exempt by rule when defining the waste being considered as well as the NRC's performance of dose calculations when assessing impacts related to the transportation and disposal of the waste being considered in the requested action. NRC staff acknowledge the difference between the two terms and modified the section in the ''Environmental Impacts of the Proposed Action'' to clarify the type of material being discussed. Regarding the comments related to dose calculations, although an evaluation of doses to members of the public is not required by TAC regulations for exempted waste it is the NRC's policy to consider doses associated with these exposure scenarios when evaluating alternate disposal requests.

As previously noted, the NRC has determined that the proposed action will not affect listed endangered or threatened species or their critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. Likewise, the NRC staff has determined that the proposed action does not have the potential to adversely affect cultural resources because no ground disturbing activities are associated with the proposed action. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

Based on the findings in this EA, the NRC staff has concluded that the proposed action would have no significant environmental impacts and that this request does not require the preparation of an EIS. Accordingly, the NRC staff has determined that a FONSI is appropriate.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document description	ADAMS accession No./website
STP Nuclear Operating Company, ''Response to End of Enforcement Discretion and Request for Approval of Alternate Disposal Procedures for Very Low-Level Radioactive Material,'' dated November 4, 2021.	ML21308A603.
STP Nuclear Operating Company, ''Revised Response to End of Enforcement Discretion and Request for Approval of Alternate Disposal Procedures for Very Low-Level Radioactive Material (EPID: L–2021–LLL–0022),'' dated December 3, 2021.	ML21337A126.
STP Nuclear Operating Company, ''STPNOC Response to Request for Additional Information Regarding Request for Approval of Alternate Disposal Procedures for Very Low-Level Radioactive Material (EPID: L 2021–LLL–0022),'' dated August 19, 2022.	ML22231A469.
STP Nuclear Operating Company, ''Clarification on STPNOC Response to Request for Additional Information Regarding Request for Approval of Alternate Disposal Procedures for Very Low-Level Radioactive Material (EPID: L 2021–LLL–0022),'' dated November 22, 2022.	ML22326A296.
STP Nuclear Operating Company, ''Updated Final Safety Analysis Report, Revision 20,'' dated April 29, 2020.	ML20133J932 (Package).
STP Nuclear Operating Company, ''2020 Radioactive Effluent Release Report,'' dated April 19, 2021	ML21110A153.
U.S. Nuclear Regulatory Commission, ''South Texas Project—Request for Additional Information—10 CFR 20.2002 Alternate Disposal Request (EPID: L–2021–LLL–0022),'' email dated July 20, 2022.	ML22206A014.
U.S. Nuclear Regulatory Commission, ''South Texas Project, Units 1 and 2—End of Enforcement Discretion Related to Alternate Disposal Procedures for Very Low-Level Radioactive Waste,'' dated August 10, 2021.	ML21180A195.
U.S. Nuclear Regulatory Commission, NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report,'' Volume 1, Revision 1, dated June 2013.	ML13106A241.
U.S. Nuclear Regulatory Commission, Supplement 48 to NUREG–1437, ''Generic Environmental Impact State for License Renewal, Supplement 48: Regarding South Texas Project, Units 1 and 2,'' Final Report, dated November 2013.	ML13322A890.
U.S. Nuclear Regulatory Commission, All Agreement States Letter, ''Clarification of the Authorization for Alternate Disposal of Material Issued Under 10 CFR 20.2002 and Exemption Provisions In 10 CFR (FSME 12–025),'' dated March 13, 2012.	ML12065A038.
U.S. Nuclear Regulatory Commission, Regulatory Information Summary 2016–11, ''Requests to Dispose of Very Low-Level Radioactive Waste Pursuant to 10 CFR 20.2002,'' dated November 13, 2016.	ML16007A488.
U.S. Nuclear Regulatory Commission, NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs,'' Final Report, dated August 2003.	ML032450279.

Document description	ADAMS accession No./website
U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation Office Instruction LIC–203, Revision 4 ''Procedural Guidance for Categorical Exclusions, Environmental Assessments, and Considering Environmental Issues,'' dated July 7, 2020.	ML20016A379.
U.S. Nuclear Regulatory Commission, NUREG–0170, ''Final Environmental Statement on the Transportation of Radioactive Materials by Air and Other Modes,'' Volume 1, dated December 1977.	ML022590355 (Package).
Texas Commission on Environmental Quality, Annual Summaries, FY2020 ''Municipal Solid Waste in Texas: A Year in Review, 2020 Data Summary and Analysis,'' dated September 2021.	*https://www.tceq.texas.gov/permitting/waste_permits/waste_planning/wp_swasteplan.html.* Retrieved September 30, 2022.
U.S. Department of Energy, ''U.S. Department of Energy W.A. Parish Post-Combustion CO^2 Capture and Sequestration Project Final Environmental Impact Statement.'' Dated February 2013.	*https://www.energy.gov/nepa/downloads/eis-0473-final-environmental-impact-statement.* Retrieved September 30, 2022.

Dated: November 30, 2022.

For the Nuclear Regulatory Commission.

Dennis J. Galvin,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–26387 Filed 12–2–22; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

President's Commission on White House Fellowships Advisory Committee: Closed Meeting

AGENCY: President's Commission on White House Fellowships, Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The President's Commission on White House Fellowships (PCWHF) was established by an Executive Order in 1964. The PCWHF is an advisory committee composed of Special Government Employees appointed by the President.

Name of Committee: President's Commission on White House Fellowships Mid-Year Meeting.

Date: January 20, 2023.

Time: 8 a.m.–5:30 p.m.

Place Eisenhower Executive Office Building, 1650 Pennsylvania Ave. NW, Washington, DC 20500.

Agenda: The Commission holds a mid-year meeting to talk with current Fellows on how their placements are going and discuss preparation for future events.

FOR FURTHER INFORMATION CONTACT: Rosemarie Vela, 712 Jackson Place NW, Washington, DC 20503, Phone: 202–395–4522.

President's Commission on White House Fellowships.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2022–26338 Filed 12–2–22; 8:45 am]

BILLING CODE 6325–69–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Virtual Public Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act, notice is hereby given that a virtual meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, December 15, 2022. There will be no in-person gathering for this meeting.

DATES: The virtual meeting will be held on December 15, 2022, beginning at 10:00 a.m. (ET).

ADDRESSES: The meeting will convene virtually.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, 202–606–2858, or email *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal prevailing rate employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public. Reports for calendar years 2008 to 2020 are posted at *http://www.opm.gov/fprac.* Previous reports are also available, upon written request to the Committee.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee at Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 7H31, 1900 E Street NW, Washington, DC 20415, (202) 606–2858.

This meeting is open to the public, with an audio option for listening. This notice sets forth the agenda for the meeting and the participation guidelines.

Meeting Agenda. The tentative agenda for this meeting includes the following Federal Wage System items:

- The definition of Monroe County, PA
- The definition of San Joaquin County, CA
- The definition of the Salinas-Monterey, CA, wage area
- The definition of the Puerto Rico wage area

Public Participation: The December 15, 2022, meeting of the Federal Prevailing Rate Advisory Committee is open to the public through advance registration. Public participation is available for the meeting. All individuals who plan to attend the virtual public meeting to listen must register by sending an email to *pay-leave-policy@opm.gov* with the subject line ''December 15 FPRAC Meeting'' no later than Tuesday, December 13, 2022.

The following information must be provided when registering:

- Name.
- Agency and duty station.
- Email address.
- Your topic of interest.

Members of the press, in addition to registering for this event, must also RSVP to *media@opm.gov* by December 13, 2022.

A confirmation email will be sent upon receipt of the registration. Audio teleconference information for participation will be sent to registrants the morning of the virtual meeting.

Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2022–26335 Filed 12–2–22; 8:45 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket No. CP2023–61; Order No. 6345]

Inbound Competitive Multi-Service Agreements With Foreign Postal Operators

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recent filing by the Postal Service that it has entered into the Inbound Competitive Multi-Service Agreement with a foreign postal operator. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 6, 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. Summary of the FPO–USPS Agreement FY23–1
III. Commission Action
IV. Ordering Paragraphs

I. Introduction

On November 28, 2022, the Postal Service filed a notice with the Commission pursuant to 39 CFR 3035.105 and Order No. 546,[1] concerning the inbound portions of an Inbound Competitive Multi-Service Agreement with a foreign postal operator (FPO) that the Postal Service seeks to include within the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 (MC2010–34) product.[2]

II. Summary of the FPO–USPS Agreement FY23–1

The FPO–USPS Agreement FY23–1 is intended to become effective on January 1, 2023, and will, unless terminated earlier, expire on December 31, 2023. Notice at 6. Except as otherwise agreed by contract, the FPO exchanges mail with the Postal Service and applies the Universal Postal Convention and Universal Postal Convention Regulations to those exchanges. *Id.* The Competitive services offered by the Postal Service to the FPO in FPO–USPS Agreement FY23–1 include rates for inbound tracked packets. *Id.* The Postal Service states that ''[m]any rates will be based on a per-piece and per-kilo structure and in Special Drawing Rights. . . .'' *Id.* (footnote omitted). Only the inbound portions of the FPO–USPS Agreement FY23–1 that concern Competitive products are included in the proposal filed in this docket. *Id.* Outbound delivery of Competitive postal products within the FPO's country have not previously been presented to the Commission and are not presented in this Notice. *Id.*

Accompanying the Notice are:

- Attachment 1—an application for non-public treatment of materials to maintain redacted portions of the FPO–USPS Agreement FY23–1 and supporting documents under seal
- Attachment 2—a redacted copy of FPO–USPS Agreement FY23–1
- Attachment 3—a copy of the Governors' Decision No. 19–1
- Attachment 4—a certified statement required by 39 CFR 3035.105(c)(2)
- Supporting financial documentation as separate Excel files

The Postal Service asserts that ''[t]he FPO–USPS Agreement FY23–1 is functionally equivalent to the baseline agreement filed in Docket No. MC2010–34 because the terms of this agreement are similar in scope and purpose to the terms of the CP2010–95 Agreement'' that is used for ''functional equivalency analyses of the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product.'' [3] The Postal Service states that ''[t]he inbound portions of the FPO–USPS Agreement FY23–1 are materially similar to the inbound competitive portions of the baseline CP2010–95 Agreement with respect to products and cost characteristics.'' Notice at 7.

Additionally, the Postal Service asserts that the FPO–USPS Agreement FY23–1 is in compliance with 39 U.S.C. 3633. *Id.* at 9. The Postal Service states further that the FPO–USPS Agreement FY23–1 is essentially an updated version of the FPO–USPS Agreement FY22–3, which was previously included in the Inbound Competitive Multi-Service Agreements with Postal Operators 1 (MC2010–34) product.[4]

The Postal Service asserts that its proposed addition of FPO–USPS Agreement FY23–1 to the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product is also supported by prior Commission determinations that bilateral agreements with FPOs and negotiated service agreements should be included in the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 (MC2010–34) product. Notice at 4–5.

III. Commission Action

The Commission establishes Docket No. CP2023–61 for consideration of the Notice pertaining to FPO–USPS Agreement FY23–1 and the related rates and classifications. The Commission invites comments on whether the Postal Service's filing is consistent with the requirements of 39 U.S.C. 3633 and 39 CFR 3035.105 and whether it is functionally equivalent to the baseline agreement included in the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (MC2010–34) product. Comments are due no later than December 6, 2022. Public portions of this filing can be accessed via the Commission's website (*www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2023–61 for consideration of the matters raised in this docket.

[1] Docket Nos. MC2010–34 and CP2010–95, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010 (Order No. 546).

[2] *See* Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operator—FY23–1, November 28, 2022, at 1 (Notice). The Postal Service refers to the agreement as ''FPO–USPS Agreement FY23–1.'' *Id.*

[3] Notice at 2–3. An agreement (the CP2010–95 Agreement) was originally presented to the Commission in Docket No. CP2010–95 for inclusion in the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product. Order No. 546 at 8–10. The CP2010–95 Agreement was subsequently accepted by the Commission as the baseline agreement for functional equivalency analyses of the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product. Docket No. CP2011–69, Order Concerning an Additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, September 7, 2011, at 5 (Order No. 840). *See also* Notice at 7–9.

[4] Notice at 3. *See* Docket No. CP2022–37, Order Approving Additional Inbound Competitive Multi-Service Agreement with Foreign Postal Operator—FY22–3, January 10, 2022, at 7 (Order No. 6088).

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments are due no later than December 6, 2022.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–26347 Filed 12–2–22; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–62 and CP2023–62; MC2023–63 and CP2023–63; MC2023–64 and CP2023–64; MC2023–65 and CP2023–65; MC2023–66 and CP2023–66]

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:* December 7, 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).:* MC2023–62 and CP2023–62; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 228 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 29, 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:* December 7, 2022.

2. *Docket No(s).:* MC2023–63 and CP2023–63; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 90 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 29, 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:* December 7, 2022.

3. *Docket No(s).:* MC2023–64 and CP2023–64; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 91 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 29, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 7, 2022.

4. *Docket No(s).:* MC2023–65 and CP2023–65; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 92 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 29, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 7, 2022.

5. *Docket No(s).:* MC2023–66 and CP2023–66; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 93 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 29, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 7, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–26416 Filed 12–2–22; 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 REGULATORY COMMISSION

[Docket Nos. MC2023–60 and CP2023–59; MC2023–61 and CP2023–60]

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:* December 6, 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

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).:* MC2023–60 and CP2023–59; *Filing Title:* USPS Request to Add Priority Mail Contract 769 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 28, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 6, 2022.

2. *Docket No(s).:* MC2023–61 and CP2023–60; *Filing Title:* USPS Request to Add Priority Mail Contract 770 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 28, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 6, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–26339 Filed 12–2–22; 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).

RAILROAD RETIREMENT BOARD

2023 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: As required by the Railroad Unemployment Insurance Act (Act), the Railroad Retirement Board (RRB) hereby publishes its notice for calendar year 2023 of account balances, factors used in calculating experience-based employer contribution rates, computation of amounts related to the monthly compensation base, and the maximum daily benefit rate for days of unemployment or sickness.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2022. The balance in notice (2) is based on data as of September 30, 2022. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2023. The determinations made in notices (8) through (11) are effective January 1, 2023. The determination made in notice (12) is effective for registration periods beginning after June 30, 2023.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 N Rush Street, Chicago, Illinois 60611–1275.

FOR FURTHER INFORMATION CONTACT: Michael J. Rizzo, Bureau of the Actuary and Research, Railroad Retirement Board, 844 N Rush Street, Chicago, Illinois 60611–1275, telephone (312) 751–4771.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2022, the computation of the calendar year 2023 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2023, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2023. Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The accrual balance of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2022, is $112,720,355.93;

2. The September 30, 2022, balance of any new loans to the RUI Account, including accrued interest, is $0.00;

3. The system compensation base is $3,810,748,651.25 as of June 30, 2022;

4. The cumulative system unallocated charge balance is ($466,677,550.51) as of June 30, 2022;

5. The pooled credit ratio for calendar year 2023 is zero;

6. The pooled charged ratio for calendar year 2023 is zero;

7. The surcharge rate for calendar year 2023 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is $1,895 for months in calendar year 2023;

9. The amount described in sections 1(k) and 3 of the Act as ''2.5 times the monthly compensation base'' is $4,737.50 for base year (calendar year) 2023;

10. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $4,737.50 with respect to disqualifications ending in calendar year 2023;

11. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $2,448 for months in calendar year 2023;

12. The maximum daily benefit rate under section 2(a)(3) of the Act is $87 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2023.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The ratio of the June 30, 2022 system compensation base of $3,810,748,651.25 to the June 30, 1991 system compensation base of $2,763,287,237.04 is 1.37906353. Multiplying 1.37906353 by $100 million yields $137,906,353.00. Multiplying $50 million by 1.37906353 produces $68,953,176.50. The Account balance on June 30, 2022, was $112,720,355.93. Accordingly, the surcharge rate for calendar year 2023 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2023 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A—37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2023 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

Using the calendar year 2023 tier 1 tax base of $160,200 for A above produces the amount of $1,895.24, which must then be rounded to $1,895. Accordingly, the monthly compensation base is determined to be $1,895 for months in calendar year 2023.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 3, 4(a–2)(i)(A) and 2(c) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends.

Multiplying 2.5 by the calendar year 2023 monthly compensation base of $1,895 produces $4,737.50. Accordingly, the amount determined under sections 1(k), 3 and 4(a–2)(i)(A) is $4,737.50 for calendar year 2023.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar 2023 monthly compensation base is $1,895. The ratio of $1,895 to $600 is 3.15833333. Multiplying 3.15833333 by $775 produces $2,448. Accordingly, the amount determined under section 2(c) is $2,448 for months in calendar year 2023.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2023, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2022 monthly compensation base is $1,755. Multiplying $1,755 by 0.05 yields $87.75. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2023, is determined to be $87.

By Authority of the Board.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2022–26392 Filed 12–2–22; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96403; File No. SR–NYSEAMER–2022–53]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.19E

November 29, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 17, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.19E pertaining to pre-trade risk controls to make additional pre-trade risk controls available to Entering Firms. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.19E pertaining to pre-trade risk controls to make additional pre-trade risk controls available to Entering Firms.

Background and Purpose

In 2020, in order to assist member organizations' efforts to manage their risk, the Exchange amended its rules to add Rule 7.19E (Pre-Trade Risk Controls),[4] which established a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms [5] could set credit limits and other pre-trade risk controls for an Entering Firm's trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded. Specifically, the Exchange added a Gross Credit Risk Limit, a Single Order Maximum Notional Value Risk Limit, and a Single Order Maximum Quantity Risk Limit [6] (collectively, the ''2020 Risk Controls'').

The Exchange now proposes to expand the list of the optional pre-trade risk controls available to Entering Firms by adding several additional pre-trade risk controls that would provide Entering Firms with enhanced abilities to manage their risk with respect to orders on the Exchange. Like the 2020 Risk Controls, use of the pre-trade risk controls proposed herein is optional, but all orders on the Exchange would pass through these risk checks. As such, an Entering Firm that does not choose to set limits pursuant to the new proposed pre-trade risk controls would not achieve any latency advantage with respect to its trading activity on the Exchange. In addition, the Exchange expects that any latency added by the pre-trade risk controls would be *de minimis.*

The proposed new pre-trade risk controls proposed herein would be available to be set by Entering Firms only. Clearing Firms designated by an Entering Firm would continue to be able to view all pre-trade risk controls set by the Entering Firm and to set the 2020 Risk Controls on the Entering Firm's behalf.

Proposed Amendment to Rule 7.19E

To accomplish this rule change, the Exchange proposes to amend paragraph (a) to include a new paragraph (a)(3) that would define the term ''Pre-Trade Risk Controls'' as all of the risk controls listed in proposed paragraph (b), inclusive of the 2020 Risk Controls and the proposed new risk controls.

In proposed paragraph (b), the Exchange proposes to list all Pre-Trade Risk Controls available to Entering Firms, which would include the existing 2020 Risk Controls and the proposed new controls. The Exchange proposes to move the definition of Gross Credit Risk Limit from current paragraph (a)(5) to proposed paragraph (b)(1), with no substantive change. Next, the Exchange proposes to add paragraph (b)(2), which would list all available ''Single Order Risk Controls.'' The Exchange proposes to move the definitions of Single Order Maximum Notional Value Risk Limit and Single Order Maximum Quantity Risk Limit from current paragraphs (a)(3) and (a)(4) to proposed paragraph (b)(2)(A), with no substantive change. Next, the Exchange proposes to add paragraphs (b)(2)(B) through (b)(2)(F) to enumerate the proposed new Single Order Risk Controls, as follows:

(B) controls related to the price of an order (including percentage-based and dollar-based controls);

(C) controls related to the order types or modifiers that can be utilized;

(D) controls to restrict the types of securities transacted (including restricted securities);

(E) controls to prohibit duplicative orders; and

(F) controls related to the size of an order as compared to the average daily volume of the security (including the ability to specify the minimum average daily volume for the securities for which such controls will be activated).

Each of the Single Order Risk Controls in proposed paragraph (b)(2) is substantively identical to risk settings available on the Cboe and MEMX [7] equities exchanges. As such, the proposed new Pre-Trade Risk Controls are familiar to market participants and are not novel.

The Exchange proposes to move current paragraph (b)(2) to proposed paragraph (c) and to re-name that paragraph ''Pre-Trade Risk Controls Available to Clearing Firms.'' The Exchange proposes to renumber current paragraphs (b)(2)(A), (b)(2)(B), and (b)(2)(C) as paragraphs (c)(1), (c)(2), and (c)(3) accordingly. The Exchange proposes to smooth the grammar in proposed paragraph (c)(1) by moving the ''or both'' language from the end of the sentence to the beginning, to clarify that an Entering Firm that does not self-clear may designate its Clearing Firm to take either or both of the following actions: viewing or setting Pre-Trade Risk Controls on the Entering Firm's behalf. Finally, in proposed paragraph (c)(1)(B), the Exchange proposes to specify that Clearing Firms so-designated may only set the 2020 Risk Controls on an Entering Firm's behalf; the proposed new risk controls set out in proposed paragraph (b)(2)(B) through (b)(2)(F) are available to be set by Entering Firms only. The Exchange does not propose any changes to proposed paragraph (c)(2), and with respect to proposed paragraph (c)(3), proposes only to update internal cross-references.

[4] *See* Securities Exchange Act Release No. 88878 (May 14, 2020), 85 FR 30770 (May 20, 2020) (SR–NYSEAMER–2020–38).

[5] The terms ''Entering Firm'' and ''Clearing Firm'' are defined in Rule 7.19E.

[6] The terms ''Gross Credit Risk Limit,'' ''Single Order Maximum Notional Value Risk Limit, and ''Single Order Maximum Quantity Risk Limit'' are defined in Rule 7.19E.

[7] *See* Cboe BZX Exchange, Inc. (''Cboe BZX'') Rule 11.13, Interpretations and Policies .01; Cboe BYX Exchange, Inc. (''Cboe BYX'') Rule 11.13, Interpretations and Policies .01; Cboe EDGA Exchange, Inc. (''Cboe EDGA'') Rule 11.10, Interpretations and Policies .01; Cboe EDGX Exchange, Inc. (''Cboe EDGX'') Rule 11.10, Interpretations and Policies .01; and MEMX LLC (''MEMX'') Rule 11.10, Interpretations and Policies .01.

The Exchange proposes to move current paragraph (b)(3) regarding ''Setting and Adjusting Pre-Trade Risk Controls'' to proposed paragraph (d), and to renumber current paragraphs (b)(3)(A) and (b)(3)(B) as proposed paragraphs (d)(1) and (d)(2) accordingly. The Exchange proposes to amend the text of proposed paragraph (d)(2) to state that in addition to Pre-Trade Risk Controls being available to be set at the MPID level or at one or more sub-IDs associated with that MPID, or both, Pre-Trade Risk Controls related to the short selling of securities, transacting in restricted securities, and the size of an order compared to the average daily volume of a security must be set per symbol.

The Exchange proposes to move current paragraph (b)(4) regarding ''Notifications'' to paragraph (e), with no changes.

The Exchange proposes to move current paragraph (c) regarding ''Automated Breach Actions'' to proposed paragraph (f) and to renumber current paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) as paragraphs (f)(1), (f)(2), (f)(3), and (f)(4) accordingly. The Exchange proposes no changes to the text of proposed paragraphs (f)(1), (f)(3), or (f)(4), other than to update an internal cross-reference. With respect to proposed paragraph (f)(2) regarding ''Breach Action for Single Order Risk Limits,'' the Exchange proposes to change the word ''Limits'' in the heading to ''Controls.'' The Exchange further proposes to amend the text of current paragraph (c)(2) to specify in paragraph (f)(2)(A) that if an order would breach a price control under paragraph (b)(2)(B), it would be rejected or canceled as specified in Rule 7.31E(a)(2)(B) (the ''Limit Order Price Protection Rule''), while providing in paragraph (f)(2)(B) that an order that breaches the designated limit of any other Single Order Risk Control would be rejected.

The Exchange proposes to move current paragraph (d) regarding ''Reinstatement of Entering Firm After Automated Breach Action'' to proposed paragraph (g), with no changes.

The Exchange proposes to move current paragraph (e) regarding ''Kill Switch Actions'' to proposed paragraph (h) with no changes, other than to update an internal cross-reference.

The Exchange proposes no changes to Commentary .01 to the Rule. The Exchange proposes to add Commentary .02 to specify the interplay between the Exchange's Limit Order Price Protection Rule and the price controls that may be set by an Entering Firm pursuant to proposed paragraph (b)(2)(B). Proposed Commentary .02 specifies that pursuant to paragraph (b)(2)(B), an Entering Firm may always set dollar-based or percentage-based controls as to the price of an order that are equal to or more restrictive than the levels set out in Rule 7.31E(a)(2)(B) regarding Limit Order Price Protection (*e.g.,* the greater of $0.15 or 10% (for securities with a reference price up to and including $25.00), 5% (for securities with a reference price of greater than $25.00 and up to and including $50.00), or 3% (for securities with a reference price greater than $50.00) away from the NBB or NBO). However, an Entering Firm may set price controls under paragraph (b)(2)(B) that are less restrictive than the levels in the Limit Order Price Protection Rule only (i) outside of Core Trading Hours or (ii) with respect to LOC Orders.

Continuing Obligations of ETP Holders Under Rule 15c3–5

The proposed Pre-Trade Risk Controls described here are meant to supplement, and not replace, the member organizations' own internal systems, monitoring, and procedures related to risk management. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5 under the Act [8] (''Rule 15c3–5'')). Use of the Exchange's Pre-Trade Risk Controls will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder.[9]

Timing and Implementation

The Exchange anticipates completing the technological changes necessary to implement the proposed rule change in the first quarter of 2023, but in any event no later than April 30, 2023. The Exchange anticipates announcing the availability of the Pre-Trade Risk Controls introduced in this filing by Trader Update in the first quarter of 2023.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed additional Pre-Trade Risk Controls would provide Entering Firms with enhanced abilities to manage their risk with respect to orders on the Exchange. The proposed additional Pre-Trade Risk Controls are not novel; they are based on existing risk settings already in place on the Cboe and MEMX equities exchanges [12] and market participants are already familiar with the types of protections that the proposed risk controls afford. As such, the Exchange believes that the proposed additional Pre-Trade Risk Controls would provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

In addition, the Exchange believes that the proposed rule change will protect investors and the public interest because the proposed additional Pre-Trade Risk Controls are a form of impact mitigation that will aid Entering Firms in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that ETP Holders implement a number of different risk-based controls, including those required by Rule 15c3–5. The controls proposed here will serve as an additional tool for Entering Firms to assist them in identifying any risk exposure. The Exchange believes the proposed additional Pre-Trade Risk Controls will assist Entering Firms in managing their financial exposure which, in turn, could

[8] *See* 17 CFR 240.15c3–5.

[9] *See also* Commentary .01 to Rule 7.19E, which provides that ''[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Exchange Act. Responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder.''

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See supra* note 7.

enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system by permitting Entering Firms to set price controls under paragraph (b)(2)(B) that are equal to or more restrictive than the levels in the Exchange's Limit Order Price Protection Rule, but preventing Entering Firms from setting price controls that are less restrictive than those levels during Core Trading Hours in most circumstances. The Exchange's Limit Order Price Protection Rule protects from aberrant trades, thus improving continuous trading and price discovery. The Exchange believes that Entering Firms should not be able to circumvent the protections of that rule by setting lower levels during Core Trading Hours, except with respect to orders that participate in the Closing Auction (*e.g.,* LOC Orders).[13] But under the proposed rule, Entering Firms seeking to further manage their exposure to aberrant trades would be permitted to set price controls at levels that are more restrictive than in the Exchange's Limit Order Price Protection Rule. Additionally, because price controls set by an Entering Firm under paragraph (b)(2)(B) would function as a form of limit order price protection, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system for an order that would breach such a price control to be rejected or canceled as specified in the Limit Order Price Protection Rule.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's member organizations because use of the proposed additional Pre-Trade Risk Controls is optional and is not a prerequisite for participation on the Exchange. In addition, because all orders on the Exchange would pass through the risk checks, there would be no difference in the latency experienced by member organizations who have opted to use the proposed additional Pre-Trade Risk Controls versus those who have not opted to use them.

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. In fact, the Exchange believes that the proposal will have a positive effect on competition because, by providing Entering Firms additional means to monitor and control risk, the proposed rule will increase confidence in the proper functioning of the markets. The Exchange believes the proposed additional Pre-Trade Risk Controls will assist Entering Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2022–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2022–53. 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–NYSEAMER–2022–53 and

[13] LOC Orders are not subject to the Limit Order Price Protection in Rule 7.31E(a)(2)(B).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[17] 15 U.S.C. 78s(b)(2)(B).

should be submitted on or before December 27, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–26334 Filed 12–2–22; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–453, OMB Control No. 3235–0510]

Submission for OMB Review; Comment Request; Extension: Rule 302

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 302 (17 CFR 242.302) of Regulation ATS (17 CFR 242.300 *et seq.*) under the Securities and Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*).

Regulation ATS sets forth a regulatory regime for ''alternative trading systems'' (''ATSs''). An entity that meets the definition of an exchange must register, pursuant to Section 5 of the Exchange Act, as a national securities exchange under Section 6 of the Exchange Act [1] or operate pursuant to an appropriate exemption.[2] One of the available exemptions is for ATSs.[3] Exchange Act Rule 3a1–1(a)(2) exempts from the definition of ''exchange'' under Section 3(a)(1) an organization, association, or group of persons that complies with Regulation ATS.[4] Regulation ATS requires an ATS to, among other things, register as a broker-dealer with the Securities and Exchange Commission (''SEC''), file a Form ATS with the Commission to notice its operations, and establish written safeguards and procedures to protect subscribers' confidential trading information. An ATS that complies with Regulation ATS and operates pursuant to the Rule 3a1–1(a)(2) exemption would not be required by Section 5 to register as a national securities exchange. Rule 302 of Regulation ATS (17 CFR 242.302) describes the recordkeeping requirements for ATSs. Under Rule 302, ATSs are required to make a record of subscribers to the ATS, daily summaries of trading in the ATS, and time-sequenced records of order information in the ATS.

The information required to be collected under Rule 302 should increase the abilities of the Commission, state securities regulatory authorities, and the self-regulatory organizations (''SROs'') to ensure that ATSs are in compliance with Regulation ATS as well as other applicable rules and regulations. If the information is not collected or collected less frequently, the regulators would be limited in their ability to comply with their statutory obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets.

Respondents consist of ATSs that choose to operate pursuant to the exemption provided by Regulation ATS from registration as national securities exchanges. There are currently 101 respondents. These respondents will spend a total of approximately 4,545 hours per year (101 respondents at 45 burden hours/respondent) to comply with the recordkeeping requirements of Rule 302. At an average cost per burden hour of $83, the resultant total related internal cost of compliance for these respondents is approximately $377,235 per year (4,545 burden hours multiplied by $83/hour).

Compliance with Rule 302 is mandatory. The information required by Rule 302 is available only for the examination of the Commission staff, state securities authorities, and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522 (''FOIA''), and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

ATSs are required to preserve, for at least three years, any records made in the process of complying with the requirements set out in Rule 302.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by January 4, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: November 29, 2022.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–26336 Filed 12–2–22; 8:45 am]

BILLING CODE 8011–01–P

[1] *See* 15 U.S.C. 78e and 78f. A ''national securities exchange'' is an exchange registered as such under Section 6 of the Exchange Act.

[2] 15 U.S.C. 78a *et seq.*

[3] Rule 300(a) of Regulation ATS provides that an ATS is ''any organization, association, person, group of persons, or system: (1) [t]hat constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of [Exchange Act Rule 3b–16]; and (2) [t]hat does not: (i) [s]et rules governing the conduct of subscribers other than the conduct of subscribers' trading on such [ATS]; or (ii) [d]iscipline subscribers other than by exclusion from trading.''

[4] *See* 17 CFR 240.3a1–1(a)(2).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, December 8, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or

more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: December 1, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–26486 Filed 12–1–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34766; File No. 812–15361]

Varagon Capital Corporation, et al.

November 29, 2022.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to supersede a previous order granted by the Commission that permits certain business development companies and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Varagon Capital Corporation, VCC Advisors, LLC, Varagon Capital Partners, L.P., VCC Equity Holdings, LLC, VCC Funding, LLC, Varagon Structured Notes Issuer, LLC, VIVA Fund I, L.P., VCP Holding I, L.P., VCP Holding II, L.P., VCAP Cayman (L), L.P., VCAP Cayman (L) SPV–1, L.P., and VCAP Cayman (U), L.P.

FILING DATES: The application was filed on June 28, 2022 and amended on September 29, 2022 and November 14, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on December 21, 2022, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Varagon Capital Corporation, *legal@varagon.com;* Anne G. Oberndorf, *AnneOberndorf@eversheds-sutherland.com.*

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' second amended and restated application, dated November 14, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–26330 Filed 12–2–22; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 11892]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on eight entities and four individuals.

DATES: The Secretary of State's determination regarding the eight entities and four individuals, and imposition of sanctions on the entities and individuals, identified in the **SUPPLEMENTARY INFORMATION** section were applicable on June 2, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (A) the Government of the Russian Federation.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in

consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (i) to operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The Secretary of the Treasury, in consultation with the Secretary of State determined that Section 1(a)(i) of E.O. 14024 shall apply to the financial services sector of the Russian Federation economy.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (C) an entity whose property and interests in property are blocked pursuant to this order.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (v) to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of this section.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (vii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to this order.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(A) of E.O. 14024, that Sergey Nikolaevich Gorkov and Mariya Vladimirovna Zakharova to be or have been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

The Secretary of State has determined, pursuant to Section 1(a)(i) of E.O. 14024, that Severgroup Limited Liability Company is operating or has operated in the financial services sector of the Russian Federation economy.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(C) of E.O. 14024, that Alexey Aleksandrovich Mordashov to be or have been a leader, official, senior executive officer, or member of the board of directors of an entity whose property and interests in property are blocked pursuant to E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(v) of E.O. 14024, that Marina Aleksandrovna Mordashova, Nikita Alekseevich Mordashov, and Kirill Alekseevich Mordashov are spouses or adult children of persons blocked whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of Section 1 of E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(vii) of E.O. 14024, that God Semenovich Nisanov, Evgeny Grigorievich Novitsky, Public Joint Stock Company Severstal, Limited Liability Company Algoritm, and Nord Gold PLC are owned or controlled by, or has acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to E.O. 14024.

Pursuant to E.O. 14024 this entity has been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property of this entity subject to U.S. jurisdiction are blocked.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2022–26322 Filed 12–2–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11891]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on two individuals pursuant.

DATES: The Secretary of State's determination regarding the two individuals and imposition of sanctions on the individuals identified in the **SUPPLEMENTARY INFORMATION** section were effective on September 30, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (v) to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of this section.

Anna Sergeevna Ershova and Olga Sergeevna Sobyanina

The Secretary of State has determined, pursuant to Section 1(a)(v) of E.O. 14024, that Anna Sergeevna Ershova and Olga Sergeevna Sobyanina are a spouse or adult child of Sergey Semyonovich Sobyanin, a person blocked whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of Section 1 of E.O. 14024.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2022–26319 Filed 12–2–22; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice: 11894]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on seven individuals and six entities.

DATES: The Secretary of State's determination regarding the seven individuals, six entities, and imposition of sanctions on the individuals, entities, and vessel identified in the **SUPPLEMENTARY INFORMATION** section were effective on August 2, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (ii) to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation: (F) activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners.

Pursuant to section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (i) to operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The Secretary of the Treasury, in consultation with the Secretary of State determined that section 1(a)(i) of E.O. 14024 shall apply to the financial services and aerospace sectors of the Russian Federation economy.

Pursuant to section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (vii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to this order.

The Secretary of State has determined, pursuant to section 1(a)(ii)(F) of E.O. 14024, Kostyantyn Volodymyrovych Ivashchenko, Sergey Vladimirovich Yeliseyev, Volodymyr Vasilyovich Saldo, Kyrylo Serhiyovych Stremousov, and Salvation Committee For Peace And Order are responsible for or complicit in, or has directly or indirectly engaged or attempted to engage in, activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation.

The Secretary of State has determined, pursuant to section 1(a)(i) of E.O. 14024, that Dmitriy Aleksandrovich Pumpyanskiy, Andrey Igorevich Melnichenko, and Alexander Anatolevich Ponomarenko operate or have operated in the financial services sector or the aerospace sector of the Russian Federation economy.

The Secretary of State has determined, pursuant to section 1(a)(vii) of E.O. 14024, that Joint Stock Company State Transportation Leasing Company, GTLK Asia Limited, GTLK Europe Capital Designated Activity Company, GTLK Europe Designated Activity Company, and GTLK Middle East Free Zone Company are owned or controlled by, or has acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to E.O. 14024.

Pursuant to E.O. 14024 this entity has been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property of this entity subject to U.S. jurisdiction are blocked.

The following vessel subject to U.S. jurisdiction is blocked: AXIOMA (Linked To: Dmitriy Aleksandrovich Pumpyanskiy).

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2022–26321 Filed 12–2–22; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice 11893]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on twenty-nine individuals.

DATES: The Secretary of State's determination regarding the twenty-nine individuals, and imposition of sanctions on the individuals, identified in the **SUPPLEMENTARY INFORMATION** section were effective on June 28, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (ii) to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation: (F) activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (A) the Government of the Russian Federation.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (v) to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of this section.

The Secretary of State has determined, pursuant to Section 1(a)(ii)(F) of E.O. 14024, Halyna Viktorivna Danylchenko is responsible for or complicit in, or has directly or indirectly engaged or attempted to engage in, activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(A) of E.O. 14024, that Nikolay Valentinovich Andrianov, Vladimir Vladimirovich Artyakov, Natalya Vladimirovna Borisova, Vasily Yuryevich Brovko, Oleg Nikolaevich Evtushenko, Victor Nikolayevich Kiryanov, Yury Nikolayevich Koptev, Dmitry Yuryevich Lelikov, Vladimir Zalmanovich Litvin, Aleksander Yuryevich Nazarov, Pavel Mikhaylovich Osin, Aleksandr Nikolaevich Popov, Anatoly Eduardovich Serdyukov, Elena Oduliovna Sierra, Natalya Ivanova Smirnova, Sergey Anatolyevich Tsyb, Nikolai Anatolevich Volobuev, Maksim Vladimirovich Vybornykh, and Igor Nikolaevich Zaviyalov to be or have been a leader, official, senior executive officer, or member of the board of directors of an entity whose property and interests in property are blocked pursuant to E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(v) of E.O. 14024, that Dmitriy Vladimirovich Artyakov, Tatiana Vladimirovna Artyakova, Tina Kandelaki, Leontiy Andreyevich Kondrakhin, Melaniya Andreyevna Kondrakhina, Tatiana Borisovna Kiryanova, Sergey Anatolevich Serdyukov, Natalya Anatolevna Serdyukova, and Evgeniya Nikolaevna Vasileva are spouses or adult children of persons blocked whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of Section 1 of E.O. 14024.

Pursuant to E.O. 14024 this entity has been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property of this entity subject to U.S. jurisdiction are blocked.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2022–26318 Filed 12–2–22; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice 11931]

Review of the Designation as a Foreign Terrorist Organization of HAMAS (and Other Aliases)

Based on a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, amended (8 U.S.C. 1189(a)(4)(C))(''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the bases for the designation of the aforementioned organizations as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: November 9, 2022.

Antony J. Blinken,

Secretary of State.

[FR Doc. 2022–26333 Filed 12–2–22; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 11890]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on 23 individuals.

DATES: The Secretary of State's determination regarding the 23 individuals and imposition of sanctions on the individuals identified in the **SUPPLEMENTARY INFORMATION** section were effective on September 15, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (ii) to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation: (F) activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (A) the Government of the Russian Federation.

The Secretary of State has determined, pursuant to Section 1(a)(ii)(F) of E.O. 14024, Volodymyr Valeriyovych Rogov, Oleksandr Fedorovych Saulenko, Volodymyr Volodymyrovich Bandura, Valery Mykhailovych Pakhnyts, Mikhail Leonidovich Rodikov, Vladimir Aleksandrovich Bespalov, Pavlo Ihorovych Filipchuk, Tetyana Yuriivna Tumilina, Hennadiy Oleksandrovych Shelestenko, Oleksandr Yuriyovych Kobets, Ihor Ihorovych Semenchev, Tetyana Oleksandrivna Kuz'mych, Serhiy Mykolayovych Cherevko, Yevhen Vitaliiovych Balytskyi, Andrey Dmitrievich Kozenko, Oleksiy Sergeevich Selivanov, Andriy Leonidovich Siguta, Anton Robertovich Titskiy, Andriy Yuriovych Trofimov, Anton Viktorovich Koltsov, Mykyta Ivanovich Samoilenko, and Viktor Andriyovych Emelianenko are responsible for or complicit in, or have directly or indirectly engaged or attempted to engage in, activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(A) of E.O. 14024, that Maxim Stanislavovich Oreshkin is or has been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2022–26320 Filed 12–2–22; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2022–0081]

Hazardous Materials: Notice of Application for Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Application for a new special permit (21283–N).

SUMMARY: PHMSA is publishing this notice to provide awareness and solicit comments on an application for a special permit currently under review by PHMSA in consultation with the Federal Railroad Administration. An applicant is seeking a special permit to authorize the transportation in commerce of cryogenic ethane in DOT–113C120W9 and DOT–113C120W tank cars via rail freight. PHMSA notes that the subject matter of the special permit—*i.e.,* transportation of cryogenic flammable liquids in rail tank cars—raises issues similar to the transportation of Liquefied Natural Gas (LNG) by rail, a matter for which multiple rulemakings are currently pending at the agency. Therefore, PHMSA is providing an opportunity for public comment on the application.

DATES: Comments must be received by January 4, 2023. However, PHMSA will consider late-filed comments to the extent possible.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2022–0081 by any of the following methods:

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

Instructions: All submissions must include the agency name and docket number (PHMSA–2022–0081) for this notice at the beginning of the comment. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office at the above addresses.

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

such marked submissions as confidential under the Freedom of Information Act (FOIA).

Submissions containing CBI should be sent to Tony Gale, Transportation Specialist, Office of Hazardous Materials Safety, (202) 366–4535, PHMSA, East Building, PHH10, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that PHMSA receives, which is not specifically designated as CBI, will be placed in the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Tony Gale, Transportation Specialist, Office of Hazardous Materials, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Currently, the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) allows for transport of cryogenic (or refrigerated) ethane in cryogenic truck trailers designated MC 331 or MC 338 under 49 CFR 173.315 and in UN T75 portable tanks in the 49 CFR 172.101 Hazardous Materials Table, special provisions column. Cryogenic ethane is not currently allowed to be shipped in DOT 113 rail tank cars. On August 20, 2021, Gas Innovations LNG Refrigerants Inc. (Gas Innovations), submitted an application for a special permit under § 107.105. Gas Innovations seeks a special permit for authorization to transport cryogenic ethane in DOT–113C120W9 and DOT–113C120W rail tank cars from Marcus Hook, Pennsylvania to locations along the Gulf Coast of the United States, Mexico, and Canada. Final destinations would be points in proximity to petrochemical or LNG liquefication facilities where the ethane would receive further processing. Gas Innovations explains in its application (available at PHMSA–2022–0081) that ethane is a non-volatile organic compound that is more stable than ethylene, a material that is currently authorized for transportation by DOT–113C120W rail tank car under the HMR. Gas Innovations further states that, compared to ethylene, ethane has a lower vapor pressure, lower flammability in air, and a higher ignition temperature. Gas Innovations asserts that transport of cryogenic ethane is safer than transport of cryogenic ethylene. Gas Innovations explains that transportation of cryogenic ethylene is authorized in DOT–113C120W9 and DOT–113C120W rail tank cars consistent with the specifications set forth in 49 CFR part 179, subpart F which specify the design and construction requirements for cryogenic liquid tank car tanks. Finally, Gas Innovations notes that it has experience in the transportation of liquefied petroleum and other cryogenic products in rail tank cars. Gas Innovations believes that the lower risk profile of ethane compared to ethylene, together with the company's experience and expertise moving cryogenic products by rail tank car, will allow them to transport cryogenic ethane at the same level of safety under a special permit compared with what is currently authorized for rail transportation of cryogenic ethylene under the HMR.

PHMSA notes that the proposed special permit related to the transportation of cryogenic flammable liquids in rail tank cars raises similar considerations as the transportation of LNG and the subject of PHMSA's Notice of Proposed Rulemaking: Suspension of HMR Amendments Authorizing Transportation of Liquefied Natural Gas by Rail (Docket No. PHMSA–2021–0058).

PHMSA seeks comments from the public on the application for a special permit to transport cryogenic ethane via rail car. Specifically, PHMSA requests comments on the application and, if the special permit were to be approved, any specific operational controls which should be added to enhance safety and environmental impacts.

This notice of receipt of application for special permit is published in accordance with 49 CFR 107.127 and the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.97(b)). Comments and answers in response to questions posed in this notice are governed by the information collection for special permits: OMB Control No. 2137–0051 (Rulemaking and Special Permit Applications).

Issued in Washington, DC, on November 29, 2022, under authority delegated in 49 CFR 1.97.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

[FR Doc. 2022–26316 Filed 12–2–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment, Template for OCC-Regulated Entities

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment on the renewal of its information collection titled ''Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment Template for OCC-Regulated Entities.'' The OCC also is giving notice that it has sent the information collection to OMB for review.

DATES: Comments must be submitted on or before January 4, 2023.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0334, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0334'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that

you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

On September 8, 2022, the OCC published a 60-day notice for this information collection, (87 FR 55082). No comments were received. You may review any comments and other related materials that pertain to this information collection at the beginning of the 30-day comment period for this notice by the method set forth in the next bullet.

• *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0334'' or ''Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment Template for OCC-Regulated Entities.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks that OMB renew its approval of the collection in this notice.

Title: Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment Template for OCC-Regulated Entities.

OMB Control No.: 1557–0334.

Abstract: This information collection sets forth standards for OCC-regulated entities to voluntarily self-assess their diversity and inclusion policies and practices and includes a template to assist with the self-assessment. The template is now a PDF fillable form, which replaces the current Excel spreadsheet template. No other substantive changes were made to the template. The template (1) asks for general information about a respondent; (2) includes questions and solicits comments for certain standards about program successes and challenges; (3) asks for a description of current practices for the self-assessment standards; (4) seeks additional diversity and inclusion data; and (5) provides an opportunity for a respondent to provide other information regarding or comment on the self-assessment of its diversity and inclusion policies and practices. The OCC may use the information submitted to monitor progress and trends in the financial services industry regarding diversity and inclusion in employment and contracting activities and to identify and highlight diversity and inclusion policies and practices that have been successful. The OCC will continue to reach out to the entities it regulates and other interested parties to discuss diversity and inclusion in the financial services industry and share leading practices. Finally, if an OCC-regulated entity submits confidential commercial information that is both customarily and actually treated as private by the entity, the entity can designate the information as private, and the OCC will treat the self-assessment information as private to the extent permitted by law, including the Freedom of Information Act, 5 U.S.C. 552, *et seq.*

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 82 (24 new respondents; 58 repeat respondents) of 327 institutions with greater than 100 employees that are requested to submit.

Frequency of Collection: Annual.

Average Annual Response Time per Respondent: 8 hours for new respondents and 4 hours for repeat respondents.

Estimated Total Annual Burden Hours: 424 hours.

Comments: On September 8, 2022, the OCC published a 60-day notice for this information collection, (87 FR 55082), in response to which the OCC received no comments. Comments continue to be solicited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) Whether the OCC has accurately estimated the information collection burden;

(c) How the OCC can enhance the quality, utility, and clarity of the information to be collected;

(d) How the OCC can minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) The respondents' estimated capital or start-up costs, as well as the costs of operating, maintaining, and purchasing services necessary to provide the information being collected.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–26345 Filed 12–2–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Revision of an Approved Information Collection; Comment Request; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of $250 Billion or More Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is

soliciting comment concerning a revision to a regulatory reporting requirement for national banks and federal savings associations titled, ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.''

DATES: Comments must be received by February 3, 2023.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0319, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0319'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet. Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' dropdown. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0319'' or ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7 St. SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services. In addition, copies of the templates referenced in this notice can be found on the OCC's website under News and Issuances (*http://www.occ.treas.gov/tools-forms/forms/bank-operations/stress-test-reporting.html*).

SUPPLEMENTARY INFORMATION: The OCC is requesting comment on the following revision to an approved information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: 1557–0319.

Abstract: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) requires certain financial companies, including national banks and federal savings associations, to conduct annual stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5]

On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] This rule describes the reports and information collections required to meet the reporting requirements under section 165(i)(2). These information collections will be treated as confidential (to the extent permitted by law.[7]

In 2012, the OCC first implemented the reporting templates referenced in the final rule.[8] The OCC uses the data collected to assess the reasonableness of the stress test results of covered institutions and to provide forward-looking information to the OCC regarding a covered institution's capital adequacy. The OCC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered institution. The stress test results are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC recognizes that many covered institutions with total consolidated assets of $250 billion or more are required to submit reports using Comprehensive Capital Analysis and Review (CCAR) reporting form FR Y–14A.[9] The OCC also recognizes the Board has made modifications to the FR Y–14A and, to the extent practical, the OCC will keep its reporting requirements consistent with the Board's FR Y–14A in order to minimize burden on covered institutions.[10]

The OCC's proposed changes include only limited updates to reflect the changes made by the Board, and the proposed OCC reporting forms will substantially resemble the forms used by the OCC last year. Some of the changes made by the Board are inapplicable to OCC-regulated institutions, such as certain changes to the Board's capital action assumptions. The OCC's proposed changes include the minimal adjustments necessary to align line items with placement on the 2022 FR Y–14A. The OCC is also proposing changes to the description of covered institutions required to complete the trading and counterparty credit risk (CCR) sub-schedules under the Global Market Shock (GMS) scenario to more closely align with the Board's description. If the Board proposes

[1] Public Law 111–203, 124 Stat. 1376, July 2010.

[2] 12 U.S.C. 5365(i)(2)(A).

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 61238 (October 9, 2012) (codified at 12 CFR part 46).

[7] 5 U.S.C. 552(b)(4).

[8] *See,* 77 FR 49485 (August 16, 2012) and 77 FR 66663 (November 6, 2012).

[9] *http://www.federalreserve.gov/reportforms.*

[10] 87 FR 52560 (August 26, 2022).

additional changes to the FR Y–14A reporting forms after the publication of this notice, the OCC expects to make corresponding changes to the OCC reporting forms to minimize inconsistencies and reduce burden. The OCC's proposed new reporting forms and instructions are available on the OCC's website at *https://www.occ.treas.gov/publications-and-resources/forms/dodd-frank-act-stress-test/index-dodd-frank-act-stress-test.html.*

Type of Review: Revision. *Affected Public:* Businesses or other for-profit.

Estimated Number of Respondents: 4 annually and 4 biennially.

Estimated Total Annual Burden: 3,558 hours.

The OCC believes that the systems covered institutions use to prepare the FR Y–14 reporting templates to submit to the Board will also be used to prepare the reporting templates described in this notice. Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–26402 Filed 12–2–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Governing Practice Before the Internal Revenue Service

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning governing practice before the Internal Revenue Service.

DATES: Written comments should be received on or before February 3, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*. Include OMB control number 1545–1871 or Regulations Governing Practice Before the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Practice Before the Internal Revenue Service.

OMB Number: 1545–1871.

Regulation Number: T.D. 9165.

Abstract: These regulations will ensure that taxpayers are provided adequate information regarding the limits of tax shelter advice that they receive and ensure, that practitioners properly advise taxpayers of relevant information with respect to tax shelter options.

Current Actions: There is no change to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 8 hours.

Estimated Total Annual Burden Hours: 13,333 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 29, 2022.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2022–26332 Filed 12–2–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Internal Revenue Service (IRS) Information Collection Request

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before January 4, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open

for Public Comments'' or by using the search function.

Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Deduction for Energy Efficient Commercial Buildings.

OMB Number: 1545–2004.

Regulation Project Number: Notice 2006–52; Notice 2008–40.

Form Number: IRS Form 7205.

Abstract: These notices set forth a process that allows the owner of energy efficient commercial building property to certify that the property satisfies the requirements of section 179D(c)(1) and (d). These notices also provide a procedure whereby the developer of computer software may certify to the Internal Revenue Service that the software is acceptable for use in calculating energy and power consumption for purposes of section 179D of the Code. IRS Form 7205 will be used to claim the deduction for energy efficient commercial buildings.

Current Actions: IRS is creating Form 7205 to standardize the procedures for claiming the deduction for energy efficient commercial building and renewing without changes to the Notices.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, Businesses, and other for-profit organizations.

Estimated Number of Respondents: 21,767.

Estimated Time per Respondent: 1.03 hours.

Estimated Total Annual Burden Hours: 22,421.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–26314 Filed 12–2–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–XXXX]

Agency Information Collection Activity: Request for Entitlement Restoration Due to Facility Closure, Program of Training or Course Disapproval (Chapter 31—Veteran Readiness and Employment)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 3, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 501(a), and (38 U.S.C. 3699(c)(2)).

Title: Request for Restoration of Entitlement Due to Facility Closure, Program of Training or Course Disapproval (Chapter 31, Title 38, U.S.C.).

OMB Control Number: 2900–XXXX.

Type of Review: Request for approval of a new collection.

Abstract: A Service member or Veteran will use VAF 28–10281 to request restoration of entitlement due to a Facility closure, or due to the disapproval of a program of training or course. The VR&E program subsequently uses the information on this form to determine if a Service member or Veteran qualifies for restoration of entitlement. Without the information gathered on this form, the VR&E program would be unable to verify that the Service member or Veteran meets the criteria for restoration of entitlement. Furthermore, the VR&E program requests approval of this information collection in order to carry

out the implementation of the law which requires VA to immediately accept applications to restore education benefits for Facility closures and disapprovals of programs of training or courses.

Affected Public: Individuals and households.

Estimated Annual Burden: 16,167 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 97,000.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt.), Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–26329 Filed 12–2–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0321]

Agency Information Collection Activity: Appointment of Veterans Service Organization as Claimant's Representative and Appointment of Individual as Claimant's Representative

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 3, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0321'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0321'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 5701, 5702, 5902, 5903, and 7332, 38 CFR 14.631 and 1.525.

Title: Appointment of Veterans Service Organization as Claimant's Representative (VA Form 21–22) and Appointment of Individual as Claimant's Representative (VA Form 21–22a).

OMB Control Number: 2900–0321.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VA Forms 21–22 and 21–22a are used to collect the information needed to determine whom claimants have appointed to represent them in the preparation, presentation, and prosecution of claims for VA benefits. The information is also used to determine the extent of representatives' access to claimants' records.

No changes have been made to these forms. The respondent burden has increased due to the estimated number of receivables averaged over the past year.

Affected Public: Individuals and households.

Estimated Annual Burden: 61,249 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 735,004.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer (Alt.), Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–26415 Filed 12–2–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0463]

Agency Information Collection Activity: Notice of Waiver of Compensation or Pension To Receive Military Pay and Allowances

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 3, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0463'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0463'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of

Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 5304 and 10 U.S.C. 12316.

Title: Notice of Waiver of Compensation or Pension to Receive Military Pay and Allowances (VA Form 21–8951–2).

OMB Control Number: 2900–0463.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–8951–2 is used by reservists/guardsmen to file a waiver for VA disability benefits in order to receive active or inactive duty training pay. The law prohibits concurrent payment of training pay and VA benefits.

No changes have been made to this form. The respondent burden has decreased due to the estimated number of receivables averaged over the past year.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,194 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 13,162.

By direction of the Secretary:

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt.), Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–26417 Filed 12–2–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Monday,

No. 232 December 5, 2022

Part II

The President

Memorandum of November 30, 2022—Uniform Standards for Tribal Consultation

Federal Register
Vol. 87, No. 232
Monday, December 5, 2022

Presidential Documents

Title 3—

The President

Memorandum of November 30, 2022

Uniform Standards for Tribal Consultation

Memorandum for the Heads of Executive Departments and Agencies

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Background.* The United States has a unique, legally affirmed Nation-to-Nation relationship with American Indian and Alaska Native Tribal Nations, which is recognized under the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. The United States recognizes the right of Tribal governments to self-govern and supports Tribal sovereignty and self-determination. The United States also has a unique trust relationship with and responsibility to protect and support Tribal Nations. In recognition of this unique legal relationship, and to strengthen the government-to-government relationship, Executive Order 13175 of November 6, 2000 (Consultation and Coordination With Indian Tribal Governments), charges all executive departments and agencies (agencies) with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications. Executive Order 13175 also sets forth fundamental principles and policymaking criteria.

The Presidential Memorandum of January 26, 2021 (Tribal Consultation and Strengthening Nation-to-Nation Relationships), requires agencies to submit detailed plans of action to implement the policies and directives of Executive Order 13175. In response, all agencies subject to Executive Order 13175 submitted plans of action, including over 50 agencies that submitted a consultation plan of action for the first time. Agencies also conducted more than 90 national-level Tribal consultations, focusing specifically on agency Tribal consultation policies. The purpose of this memorandum is to establish uniform minimum standards to be implemented across all agencies regarding how Tribal consultations are to be conducted. This memorandum is designed to respond to the input received from Tribal Nations regarding Tribal consultation, improve and streamline the consultation process for both Tribes and Federal participants, and ensure more consistency in how agencies initiate, provide notice for, conduct, record, and report on Tribal consultations. These are baseline standards; agencies are encouraged to build upon these standards to fulfill the goals and purposes of Executive Order 13175 consistent with their unique missions and engagement with Tribal Nations on agency-specific issues.

Sec. 2. *Consultation Principles.* Tribal consultation is a two-way, Nation-to-Nation exchange of information and dialogue between official representatives of the United States and of Tribal Nations regarding Federal policies that have Tribal implications. Consultation recognizes Tribal sovereignty and the Nation-to-Nation relationship between the United States and Tribal Nations, and acknowledges that the United States maintains certain treaty and trust responsibilities to Tribal Nations. Consultation requires that information obtained from Tribes be given meaningful consideration, and agencies should strive for consensus with Tribes or a mutually desired outcome. Consultation should generally include both Federal and Tribal officials with decision-making authority regarding the proposed policy that has Tribal implications. Consultation will ensure that applicable information is readily available to all parties, that Federal and Tribal officials have adequate time

to communicate, and that after the Federal decision, consulting Tribal Nations are advised as to how their input influenced that decision-making. All of these principles should be applied to the extent practicable and permitted by law.

Sec. 3. *Designating an Agency Point of Contact for Tribal Consultation.* (a) The head of each agency shall designate a primary point of contact for Tribal consultation matters who is responsible for advising agency staff on all matters pertaining to Tribal consultation and serving as the primary point of contact for Tribal officials seeking to consult with the agency.

(b) The head of each agency shall consider designating additional points of contact as necessary to facilitate consultation on varied subject matter areas within the agency.

(c) Each agency shall provide the names and contact information of the designated agency points of contact for Tribal consultation on its website, as well as to the White House Office of Intergovernmental Affairs and the White House Council on Native American Affairs.

(d) The designated agency points of contact may delegate consultation responsibilities to other decision-making agency officials within their agency as necessary and appropriate.

Sec. 4. *Determining Whether Consultation Is Appropriate.* The head of each agency shall ensure that agency staff undertake an analysis as early as possible to determine whether Tribal consultation is required or appropriate consistent with Executive Order 13175. This analysis should occur regardless of whether a Tribal government requests consultation. When a Tribal government requests consultation, the agency—to the extent that it has not yet performed the analysis to determine whether consultation is appropriate—shall conduct that analysis as soon as possible and respond to the Tribe within a reasonable time period. If there is a reasonable basis to believe that a policy may have Tribal implications, consistent with the definition in Executive Order 13175, the agency shall follow the applicable requirements for consultation. Agencies may still engage in Tribal consultation even if they determine that a policy will not have Tribal implications, and should consider doing so if they determine that a policy is of interest to a Tribe or Tribes.

Sec. 5. *Notice of Consultation.* (a) When inviting a Tribe or Tribes to consult, the head of each agency should:

(i) develop a notice of consultation, which includes:

(A) sufficient information on the topic to be discussed, in an accessible language and format, and context for the consultation topic, to facilitate meaningful consultation;

(B) the date, time, and location of the consultation, as requested by the agency or as developed in consultation with the Tribe or Tribes;

(C) if consulting virtually or by telephone, links to join or register in advance;

(D) an explanation of any time constraints known to the agency at that time, such as statutory deadlines;

(E) deadlines for any written comments on the topic; and

(F) names and contact information for agency staff who can provide more information;

(ii) transmit the notice of consultation, using the agency's standard method of communication, to each affected Tribal government and consider posting it to the agency's website or any centralized Federal Government site for providing notice of or coordinating Tribal consultations;

(iii) provide notice of at least 30 days to the Tribe or Tribes of any planned consultations, except as provided in subsection (c) of this section;

(iv) provide appropriate, available information on the subject of consultation including, where consistent with applicable law, a proposed agenda,

framing paper, and other relevant documents to assist in the consultation process; and

(v) allow for a written comment period following the consultation of at least 30 days, except as provided in subsection (c) of this section.

(b) The head of each agency shall ensure that agency officials responsible for sending invitations to consult to interested or potentially affected Tribal governments use available tools, databases, and agency documentation, as well as communicate with agency representatives who may be knowledgeable about those Tribes and the location(s) affected by the policy with Tribal implications, to ensure their invitation efforts are appropriately inclusive. Such efforts should account for the fact that Tribes may have connections or legally protected rights to locations and resources beyond their current Tribal lands and Tribal government offices such as off-reservation fishing, hunting, gathering, or other rights.

(c) If there are time constraints such that 30 days' notice of consultation is not possible, or that the post-consultation written comment period described in subsection (a)(v) of this section must be shorter than 30 days, the notice of consultation should include information as to why the standard notice or written comment period cannot be provided. Upon the request of a Tribe, or where it would serve Tribal interests or fulfill certain trust obligations to Tribal Nations, agencies should consider adjusting deadlines for notice of consultations and for accepting written comments.

Sec. 6. *Conducting the Consultation.* Throughout a consultation, the head of each agency, or appropriate representatives, shall recognize and respect Tribal self-government and sovereignty; identify and consider Tribal treaty rights, reserved rights, and other rights; respect and elevate Indigenous Knowledge, including cultural norms and practices relevant to such consultations; and meet the responsibilities that arise from the unique legal relationship between the Federal Government and Tribal governments. The head of each agency should ensure that agency representatives with appropriate expertise and, to the extent practicable, decision-making authority regarding the proposed policy are present at the Nation-to-Nation consultation. The head of each agency should consider conducting the consultation in a manner that prioritizes participation of official Tribal government leaders.

Sec. 7. *Record of the Consultation.* (a) The head of each agency shall maintain a record of the consultation process that includes:

(i) a summary of Tribal input received;

(ii) a general explanation of how Tribal input influenced or was incorporated into the agency action; and

(iii) if relevant, the general reasoning for why Tribal suggestions were not incorporated into the agency action or why consensus could not be attained.

(b) The head of each agency shall timely disclose to the affected Tribe or Tribes the outcome of the consultation and decisions made as a result of the consultation. To the extent permitted by applicable law, the head of each agency shall seek to ensure that information designated as sensitive by a Tribal government is not publicly disclosed. Agencies should obtain advance informed consent from Tribal communities for the use of sensitive information provided by the Tribe, and should inform Tribal representatives that certain Federal laws, including the Freedom of Information Act, may require disclosure of such information.

(c) For national and regional consultations, or if otherwise appropriate, the head of each agency should also consider publicly posting the record of consultation to foster ease of reference and use by other agencies, employees, and processes, and to minimize burdens on Tribes to provide similar input in multiple consultations. Decisions regarding whether to publicly post a record of consultation should be made with Tribal input.

(d) The record of consultation does not waive any privilege or other exception to disclosure pursuant to the Freedom of Information Act or its implementing regulations.

Sec. 8. *Training.* (a) The head of each agency shall require annual training regarding Tribal consultation for agency employees who work with Tribal Nations or on policies with Tribal implications. This training shall include, at minimum, review of Executive Order 13175, this memorandum, and any applicable Tribal consultation policy of the agency.

(b) In addition, the Secretary of the Interior and the Director of the Office of Personnel Management (OPM), in consultation with Tribal Nations, shall establish training modules regarding Tribal consultation to be available for agency employees who work with Tribal Nations or on policies with Tribal implications. These training modules should explain the concepts of Tribal consultation, the Nation-to-Nation relationship, and Tribal sovereignty. Agencies may use these training modules to satisfy the annual training requirement set forth in subsection (a) of this section.

(c) Within 180 days of the date of this memorandum, the Director of OPM, in consultation with the Secretary of the Interior, shall report to the President on progress toward establishing training modules regarding Tribal consultation and shall identify additional resources or other support necessary to implement this training.

Sec. 9. *Definitions.* The terms ''Tribal officials,'' ''policies that have Tribal implications,'' and ''agency'' as used in this memorandum are as defined in Executive Order 13175. The terms ''Tribes'' and ''Tribal Nations'' as used in this memorandum have the same definition as the term ''Indian Tribe'' as defined in Executive Order 13175.

Sec. 10. *Scope.* Nothing in this memorandum shall be construed to impair or otherwise affect the ability of heads of agencies to set more specific or more stringent standards, or to incorporate other best practices, for conducting Tribal consultation.

Sec. 11. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

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

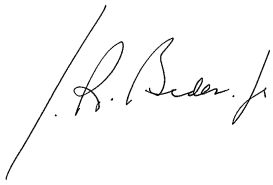
(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

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

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

(d) Independent agencies are strongly encouraged to comply with the provisions of this memorandum.

(e) The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, November 30, 2022

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