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Title 3—

The President

Executive Order 14089 of December 13, 2022

Establishing the President's Advisory Council on African Diaspora Engagement in the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to strengthen the dialogue between United States officials and the African Diaspora by elevating engagement through collaboration, partnership, and community-building among the United States, Africa, and other nations globally, it is hereby ordered as follows:

Section 1. *Policy.* The United States has a longstanding commitment to engagement with the African Diaspora—people of native African origin living outside the African continent, and who have been collectively described as constituting the sixth region of the African Union. The African Diaspora in the United States is a source of strength, and encompasses African Americans—including descendants of enslaved Africans—and nearly two million African immigrants who have close familial, social, and economic connections to the African continent. African Americans have been foundational to strengthening United States-Africa relations and in shaping United States foreign policy toward Africa—including by actively advocating on the African continent's behalf, even as they struggled for civil rights in the United States. The African immigrant community continues to make significant contributions to America's growth and prosperity. The United States Government encourages efforts to advance equity and opportunity for the African Diaspora in the United States, and will continue to encourage efforts to strengthen cultural, social, political, and economic ties between African communities, the global African Diaspora, and the United States.

In August 2022, my Administration released the U.S. Strategy Toward Sub-Saharan Africa, which outlines our foreign policy objectives to bolster relations with African nations, listen to diverse local voices, and widen the circle of engagement to advance our strategic objectives for the benefit of both Africans and Americans.

Sec. 2. *Establishment of the President's Advisory Council on African Diaspora Engagement in the United States.* Within 180 days of the date of this order, the Secretary of State shall establish the President's Advisory Council on African Diaspora Engagement in the United States (Advisory Council) within the Department of State.

Sec. 3. *Membership.* (a) The Advisory Council shall consist of not more than 12 members, appointed by the Secretary of State, who are representatives of and reflect the diversity of the African Diaspora from African American and African immigrant communities, including individuals who have distinguished themselves in government, sports, creative industries, business, academia, social work, and faith-based activities. Appointments to the Advisory Council shall be made without regard to political affiliation.

(b) Members of the Advisory Council shall serve for 2-year terms without compensation or reimbursement.

(c) The Secretary of State shall designate one of the members of the Advisory Council to serve as Chair.

(d) The Secretary of State shall designate a senior officer or employee of the Department of State to serve as Executive Director of the Advisory Council.

Sec. 4. *Functions.* (a) The Advisory Council shall advise the President, through the Secretary of State, and then through the Assistant to the President for National Security Affairs (APNSA) and the Assistant to the President for Domestic Policy (APDP), on strengthening connections between the United States Government and the African Diaspora in the United States, as described in the U.S. Strategy Toward Sub-Saharan Africa.

(b) In providing the advice described in subsection (a) of this section, the Advisory Council shall provide information, analysis, and recommendations that address the following, in addition to other topics deemed relevant by the Secretary of State, in coordination with the APNSA and the APDP:

(i) strategies to advance equity and opportunity for African Diaspora communities, including through efforts coordinated by the Domestic Policy Council under Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government);

(ii) ways to support the United Nations' Permanent Forum on People of African Descent;

(iii) programs and initiatives to strengthen cultural, social, political, and economic ties between African communities, the global African Diaspora, and the United States, such as the Young African Leaders Initiative, and address challenges and opportunities to advance inclusion, belonging, and public awareness of the diversity, accomplishments, culture, and history of the African Diaspora;

(iv) programs and initiatives, such as the International Visitor Leadership Program, to expand educational exchange programs between Africa and the United States;

(v) programs and initiatives to increase public- and private-sector collaboration and community involvement in improving the socioeconomic well-being of African Diaspora communities; and

(vi) programs and initiatives, such as Prosper Africa, to increase participation of members of the African Diaspora in the United States with regard to trade, investment, economic growth, and development programs relating to Africa.

Sec. 5. *Administration.* (a) The Department of State shall provide funding and administrative support for the Advisory Council, to the extent permitted by law and within existing appropriations.

(b) The Advisory Council shall meet in plenary session on a quarterly basis, at a minimum, or more frequently as necessary.

Sec. 6. *General Provisions.* (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the ''Act''), may apply to the Advisory Council, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Secretary of State in accordance with the guidelines issued by the Administrator of General Services.

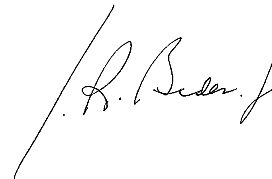
(b) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
December 13, 2022.

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Presidential Documents

Proclamation 10506 of December 14, 2022

Day of Remembrance: 10 Years After the 2012 Sandy Hook Elementary School Shooting

By the President of the United States of America

A Proclamation

Ten years ago, a lone gunman killed 20 first-graders and 6 educators at Sandy Hook Elementary School in Newtown, Connecticut. Today, those first-graders should be sitting in eleventh-grade classrooms, planning for their high school graduation and all the possibilities ahead. Those educators should be preparing lessons for new groups of students and enjoying full lives surrounded by their loved ones. Instead, their desks are forever empty, their families are left with holes in their hearts, and our Nation is missing a piece of its soul.

As we remember and grieve those victims and their families, we acknowledge the pain that the community of Newtown continues to endure. That horrific day changed the lives of every survivor, many of whom still carry physical and emotional wounds. It forced parents across America to wonder whether the goodbye hug they gave their child before school would be the last they ever have, like it was for the Newtown families. And it has driven all of us to reexamine our core values and whether this can be a country that protects the most innocent.

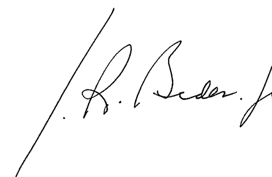
I believe it can. This summer, I signed into law the first major bipartisan gun safety legislation in nearly 30 years, which helps to keep firearms away from people who are a danger to themselves and others. And I have taken more executive action to reduce gun violence than any other President by this point in their Administration. We are cracking down on so-called ghost guns, rogue gun dealers, and gun traffickers; helping States implement laws for extreme risk protection orders; and boosting investments in community interventions to stop violence. I am also fighting to ban assault weapons and high-capacity magazines. The memories of the Newtown victims—and all victims of gun violence—demand nothing less.

I am optimistic because I have seen the courage and resolve of the Sandy Hook families. They have suffered unimaginable loss but have turned their pain into purpose. For some, that has meant advocating for gun safety laws to protect other families from experiencing the same grief. For others, it has meant starting foundations or programs that honor those they lost. Working alongside other families of gun violence victims across America, they have helped shape a new movement for safety, grounded in love for our children, unwavering resilience in the face of grief, and a deeply held dream for a better future.

Today and always, we honor the bright lives lost 10 years ago at Sandy Hook Elementary School: Charlotte Bacon, Daniel Barden, Rachel D'Avino, Olivia Engel, Josephine Gay, Dylan Hockley, Dawn Lafferty Hochsprung, Madeleine Hsu, Catherine Hubbard, Chase Kowalski, Jesse Lewis, Ana Márquez-Greene, James Mattioli, Grace McDonnell, Anne Marie Murphy, Emilie Parker, Jack Pinto, Noah Pozner, Caroline Previdi, Jessica Rekos, Avielle Richman, Lauren Rousseau, Mary Sherlach, Victoria Soto, Benjamin Wheeler, Allison Wyatt.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim December 14, 2022, a Day of Remembrance: 10 Years After the 2012 Sandy Hook Elementary School Shooting. Let us recognize the courage of survivors and families of victims, who continue working to rebuild their lives, and let us commit to eradicating gun violence and helping rebuild communities that have suffered so much.

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



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Presidential Documents

Proclamation 10507 of December 14, 2022

Bill of Rights Day, 2022

By the President of the United States of America

A Proclamation

With three simple words—''We the People''—the United States Constitution set in motion the most extraordinary experiment in self-governance that the world has ever known. The Bill of Rights made this possible, ensuring ratification by every State then in our new Nation. On Bill of Rights Day, we celebrate the fundamental American freedoms enshrined in those first 10 Amendments to our Constitution and recommit to making the full promise of America real for all Americans.

The Bill of Rights embodies a core American strength: the capacity for compromise and self-improvement. By codifying fundamental freedoms, it won over States skeptical of a Federal Government at the time of our founding and proved our Constitution to be a living document, capable of evolving to perfect our Union. The basic rights it guarantees—to religion, speech, press, privacy, and more—have come to define our Nation. And in the over two centuries since their enumeration, 17 other Amendments have been ratified—ending slavery, ensuring equal protection under the law, giving women the right to vote, banning poll taxes, and more—opening the door of opportunity a little wider with each generation.

But freedom is not free—it requires constant vigilance. And nothing about our democracy is guaranteed. Every generation has had to defend our Constitution, including ours today. The right to choose—grounded in the 14th Amendment, enshrined in a half-century of precedent, and relied on for generations—is now under assault. A wave of anti-LGBTQI+ bills is attacking Americans' freedom to be themselves. In recent years, at least 20 States have passed laws that make it harder to vote. And we have seen new threats to the rule of law that disregard the will of the people.

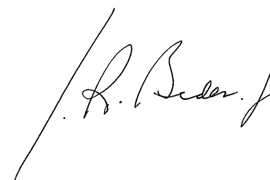
At the same time, we have also seen tens of millions of Americans stand up to protect our rights and stand against any of these attempts to take our country backwards. I am determined to be a partner in that work. My Administration has taken immediate action to protect reproductive health care, access to contraception, the privacy of sensitive health information, and more; and we will keep fighting to pass a Federal law restoring every woman's right to choose. I was also proud to sign the Respect for Marriage Act this month and will keep working to advance equality for LGBTQI+ communities, fighting to pass the Equality Act, and building on Executive Orders tackling discrimination in health care, foster care, housing, schools, and more. And because voting is democracy's threshold liberty—a sacred right on which all our other freedoms rely—I am pushing for new investments to secure voting sites and equipment and to recruit and train election workers. I issued an Executive Order directing Federal agencies to expand access to voter registration. I appointed top civil rights advocates to the Department of Justice, which has separately doubled its own voting rights staff. And I will keep pushing to pass the John Lewis Voting Rights Advancement and Freedom to Vote Acts, as well as the Electoral Count Reform Act, to make voting easier and our democracy more secure.

The Bill of Rights consecrates twin American ideals of equality and democracy. They are the rock on which our Nation is built and the reasons

why America has long been a beacon to the world. Our democracy will be preserved not just in courts of law but also in people's habits of heart. It lives in our national character, courage, and optimism and in the fundamental empathy that underlies our system of government—a willingness to see each other not as enemies but as fellow citizens with equal rights. Today, we recommit to defending and extending that promise to everyone.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 15, 2022, as Bill of Rights Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

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



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Monday, December 19, 2022

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FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[Notice 2022–22]

Internet Communication Disclaimers and Definition of ''Public Communication''

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules to amend its regulations concerning disclaimers on public communications on the internet. The Commission is implementing these amendments in light of technological advances since the Commission last revised its rules governing internet disclaimers in 2006, and to address questions from the public about the application of those rules to internet communications. The Commission's purpose in promulgating these rules is to apply the Federal Election Campaign Act's disclaimer requirements to general public political advertising on the internet. The Commission is also revising the definition of ''public communication'' to clarify how it applies to general public political advertising on the internet.

DATES: The effective date is March 1, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Joanna S. Waldstreicher, Attorney, 1050 First St. NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530. Documents relating to the rulemaking record are available on the Commission's website at *http://sers.fec.gov/fosers/rulemaking.htm?pid=74739.*

SUPPLEMENTARY INFORMATION: The Commission is revising its regulatory definition of ''public communication'' and requirements regarding disclaimers on certain public communications placed for a fee on the internet.

The new regulations are intended to give the American public improved access to information about the persons paying for and candidates authorizing certain internet communications, pursuant to the Federal Election Campaign Act (the ''Act''). The regulations clarify how the disclaimer requirements apply to various types of internet communications and allow certain internet communications to provide disclaimers through alternative technological means.

Transmission of Final Rules to Congress

Before final promulgation of any rules or regulations to carry out the provisions of the Act, the Commission transmits the rules or regulations to the Speaker of the House of Representatives and the President of the Senate for a thirty-legislative-day review period. 52 U.S.C. 30111(d). The effective date of this final rule is March 1, 2023.

Explanation and Justification

I. Background

1. Current Statutory and Regulatory Framework

Under the Act and Commission regulations, a ''disclaimer'' is a statement that must appear on certain communications to identify the payor and, where applicable, whether the communication was authorized by a candidate. 52 U.S.C. 30120(a); 11 CFR 110.11; *see Citizens United* v. *FEC,* 558 U.S. 310, 366–67 (2010) (''*Citizens United*'') (citing *Buckley* v. *Valeo,* 424 U.S. 1, 64, 66 (1976).

With some exceptions, the Act and Commission regulations require disclaimers for public communications: (1) made by a political committee; (2) that expressly advocate the election or defeat of a clearly identified federal candidate; or (3) that solicit a contribution. 52 U.S.C. 30120(a); 11 CFR 110.11(a). In addition to public communications by political committees, ''electronic mail of more than 500 substantially similar communications when sent by a political committee; and all internet websites of political committees available to the general public'' also must have disclaimers. 11 CFR 110.11(a)(1).

These final rules modify the definition of ''public communication.'' 11 CFR 100.26. Specifically, as explained below, the term ''public communication'' now includes ''communications placed for a fee on another person's website, digital device, application, or advertising platform.''

The content of the disclaimer that must appear on a given public communication depends on who authorized and paid for the advertisement. If a candidate, an authorized committee of a candidate, or an agent of either, pays for and authorizes the communication, then the disclaimer must state that the communication ''has been paid for by the authorized political committee.'' 11 CFR 110.11(b)(l); *see also* 52 U.S.C. 30120(a)(1). If a public communication is paid for by someone else, but is authorized by a candidate, an authorized committee of a candidate, or an agent of either, then the disclaimer must state who paid for the communication and that it is authorized by the candidate, authorized committee of the candidate, or an agent of either. 11 CFR 110.11(b)(2); *see also* 52 U.S.C. 30120(a)(2). If the communication is not authorized by a candidate, an authorized committee of a candidate, or an agent of either, then ''the disclaimer must clearly state the full name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication, and that the communication is not authorized by any candidate or candidate's committee.'' 11 CFR 110.11(b)(3); *see also* 52 U.S.C. 30120(a)(3). Every disclaimer ''must be presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person'' that paid for the communication. 11 CFR 110.11(c)(1).

Commission regulations contain certain exceptions to the general disclaimer requirements. For example, under the ''small items exception,'' disclaimers are not required for public communications placed on ''[b]umper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be conveniently printed.'' 11 CFR 110.11(f)(1)(i). Under the ''impracticable exception,'' disclaimers are not required for ''[s]kywriting, water towers, wearing apparel, or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable.'' 11 CFR 110.11(f)(1)(ii).

2. History of Disclaimers on Internet Communications

a. 1994 Rulemaking

The Commission first addressed internet disclaimers in its 1994 rulemaking regarding communications disclaimer requirements. The Commission's initial proposal was silent as to internet communications. *See* Communications Disclaimer Requirements, 59 FR 50708 (Oct. 5, 1994). However, after publishing the Notice of Proposed Rulemaking, the Commission considered an advisory opinion request from a political committee that intended to ''provide a forum for publicly available information on selected public officials'' on its website. Advisory Opinion 1995–09 (NewtWatch) at 1. The Commission concluded that the committee's use of a website was ''a form of general public political advertising under 11 CFR 110.11'' [1] that required a disclaimer. Advisory Opinion 1995–09 (NewtWatch) at 2. The Commission codified this interpretation in its final rule, explaining that ''internet communications and solicitations that constitute general public political advertising require disclaimers'' and that ''[t]hese communications and others that are indistinguishable in all material aspects from those addressed in [Advisory Opinion 1995–09 (NewtWatch PAC)] will now be subject to'' disclaimer requirements. Communications Disclaimer Requirements, 60 FR 52069, 52071 (Oct. 5, 1995).

b. BCRA and the 2002 Rulemaking

In 2002, Congress enacted the Bipartisan Campaign Reform Act of 2002, Public Law 107–155, 116 Stat. 81 (2002) (''BCRA''). In BCRA, Congress added new specificity to the disclaimer requirements, expanded the scope of communications covered by the disclaimer requirements, and enacted ''stand-by-your-ad'' requirements. Congress also added a new term, ''public communication,'' which did not reference the internet: ''The term 'public communication' means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.'' *See* 52 U.S.C. 30101(22).

In implementing BCRA, the Commission promulgated a new regulatory definition of ''public communication'' that mirrored the statutory language but added that ''[t]he term public communication shall not include communications over the internet.'' 11 CFR 100.26 (2002); Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 FR 49064, 49111 (July 29, 2002). The Commission also promulgated new rules to implement BCRA's changes to the disclaimer provisions of the Act. *See* Disclaimers, Fraudulent Solicitations, Civil Penalties, and Personal Use of Campaign Funds, 67 FR 76962 (Dec. 13, 2002). The new disclaimer rules applied to ''public communications'' as well as political committee websites and the distribution by political committees of more than 500 substantially similar emails. Other than these two specific types of internet-based activities by political committees, however, internet communications were not subject to the disclaimer requirements. *Id.* at 76963–64 (explaining that ''[t]his is the Commission's only divergence from the 11 CFR 100.26 definition of 'public communication' '').

c. The Shays Litigation and Subsequent Internet Communications Rulemaking

In 2004, the U.S. District Court for the District of Columbia considered a case in which the plaintiffs alleged, *inter alia,* that the Commission had erred in requiring that a ''coordinated communication'' could only be a ''public communication'' or ''electioneering communication'' because this would mean that internet communications, ''no matter how closely they are coordinated with political parties or a candidate's campaign, cannot be considered 'coordinated' under the [Commission's] regulations'' by virtue of being specifically excluded from the definition of ''public communication.'' *Shays* v. *FEC,* 337 F. Supp. 2d 28, 65 (D.D.C. 2004) (''*Shays*''), *aff'd,* 414 F. 3d 76 (D.C. Cir. 2005), *reh'g en banc denied* (Oct. 21, 2005). The court agreed with the plaintiffs, finding that ''Congress intended all other forms of 'general public political advertising' to be covered by the term 'public communication.' '' *Shays* at 70. The court reasoned that ''[w]hile all internet communications do not fall within this descriptive phrase, some clearly do.'' *Id.* at 67. The court concluded that ''[w]hat constitutes 'general public political advertising' in the world of the internet is a matter for the FEC to determine.'' *Id.* at 70.

Following that ruling, the Commission amended the definition of ''public communication'' to include ''internet communications placed on another person's website for a fee.'' 11 CFR 100.26; internet Communications, 71 FR 18589 (Apr. 12, 2006) (''2006 Internet E&J''). Under the new definition, ''when someone such as an individual, political committee, labor organization or corporation pays a fee to place a banner, video, or pop-up advertisement on another person's website, the person paying makes a 'public communication.' '' 2006 Internet E&J, 71 FR at 18593–94. Furthermore, ''the placement of advertising on another person's website for a fee includes all potential forms of advertising, such as banner advertisements, streaming video, popup advertisements, and directed search results.'' *Id* at 18594; *see also id.* at 18608 n.52 (noting that, as used in a different context, the ''terms 'website' and 'any internet or electronic publication' are meant to encompass a wide range of existing and developing technology'' including ''social networking software''). The Commission explained that the revised definition of ''public communication'' also affects, among other provisions, ''the requirement to include disclaimer statements on certain communications pursuant to 11 CFR 110.11.'' *Id.* at 18589 n.2.

After the adoption of these regulations in 2006, the Commission considered several advisory opinion requests that concerned the application of disclaimers to internet communications. The queries centered on whether certain communications are exempt from the disclaimer requirements under the impracticable or small items exceptions at 11 CFR 110.11(f)(1) or whether they may incorporate technological modifications to satisfy the disclaimer requirements.[2]

The Commission was first asked to apply the small items exception or impracticable exception to text-limited

[1] Commission regulations at the time did not define or otherwise reference ''public communications.'' Instead, in determining whether a communication required a disclaimer, the Commission considered whether the communication used a specific format (*i.e.,* any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing), or if it otherwise constituted ''general public political advertising.'' *See* 11 CFR 110.11(a)(1) (1995).

[2] *See* Advisory Opinion 2017–12 (Take Back Action Fund); Advisory Opinion 2010–19 (Google); *see also* Advisory Opinion Request 2013–18 (Revolution Messaging) (Sept. 11, 2013); Advisory Opinion Request 2011–09 (Facebook) (Apr. 26, 2011). In addition to the advisory opinion requests concerning internet advertisements, another advisory opinion request asked the Commission to apply the impracticable exception in support of truncating a political committee's name in disclaimers on its mass emails and on its website. *See* Advisory Opinion 2013–13 (Freshman Hold'em JFC *et al.*) at n.4.

internet advertisements in 2010. Google proposed to sell AdWords search keyword advertisements limited to 95 text characters; the proposed advertisements would not include disclaimers but would link to a landing page (the purchasing political committee's website) on which users would see a disclaimer. *See* Advisory Opinion 2010–19 (Google). The Commission concluded that Google's proposed AdWords program ''under the circumstances described . . . [was] not in violation of the Act or Commission regulations,'' but the advisory opinion did not answer whether Google AdWords ads would qualify for the small items or impracticable exception. *Id.* at 2.

In response to two subsequent advisory opinion requests concerning the possible application of the small items exception or impracticable exception to small internet advertisements, the Commission was unable to issue advisory opinions by the required four affirmative votes. *See* Advisory Opinion Request 2011–09 (Facebook) (Apr. 26, 2011) (concerning application of exceptions to zero-to-160 text character ads with thumbnail size images); Advisory Opinion Request 2013–18 (Revolution Messaging) (Sept. 11, 2013) (concerning application of exceptions to mobile banner ads).

Finally, the Commission considered an advisory opinion request in 2017 asking whether paid image and video ads on Facebook ''must . . . include all, some, or none of the disclaimer information specified by 52 U.S.C. 30120(a).'' Advisory Opinion Request 2017–12 (Take Back Action Fund) at 4. The Commission issued an opinion concluding that the proposed Facebook image and video advertisements ''must include all of the disclaimer information'' specified by the Act, but, in reaching this conclusion, Commissioners relied on two different rationales, neither of which garnered the required four affirmative votes. Advisory Opinion 2017–12 (Take Back Action Fund) at 1.

d. Current Rulemaking

On October 13, 2011, the Commission published in the **Federal Register** an Advance Notice of Proposed Rulemaking (''ANPRM'') soliciting comment on whether to modify disclaimer requirements at 11 CFR 110.11 for certain internet communications, or to provide exceptions thereto, consistent with the Act. The Commission received eight comments in response. Six of the commenters agreed that the Commission should update the disclaimer rules through a rulemaking, though commenters differed on how the Commission should do so.

On October 18, 2016, the Commission solicited additional comment in light of legal and technological developments during the five years since the ANPRM was published. The Commission received six comments, all but one of which supported updating the disclaimer rules. Commenters, however, differed on whether the Commission should allow modified disclaimers for all online advertisements or exempt paid advertisements on social media platforms from the disclaimer requirements.[3]

On October 10, 2017, the Commission again solicited additional comment in light of the ongoing legal, factual, and technological developments in this area. During this reopened comment period, the Commission received submissions from 149,772 commenters (including persons who signed on to others' comments), of which 147,320 indicated support for updating or strengthening the disclaimer rules or other government action; 2,262 indicated opposition to such efforts; and 190 did not indicate a discernable preference.

On March 26, 2018, the Commission published in the **Federal Register** a Notice of Proposed Rulemaking in this rulemaking. *See* Notice of Proposed Rulemaking, Internet Communication Disclaimers and Definition of ''Public Communication,'' 83 FR 12864 (Mar. 26, 2018) (''NPRM''). During the comment period, the Commission received submissions from 165,801 commenters (including persons who signed on to others' comments), of which a large majority supported one or the other of two alternative proposals or supported revising disclaimer rules generally. In addition, the Commission received three comments and twelve *ex parte* communications after the comment period.

As discussed above, this NPRM proposed to revise the definition of ''public communication'' to include communications placed for a fee on another person's ''internet-enabled device or application,'' in addition to communications placed for a fee on another person's website. *Id.* In addition, the Commission requested comment on two proposed revisions to its disclaimer rules that were intended to clarify, for various types of paid internet public communications, the disclaimers required and, in certain circumstances, when a paid internet public communication could employ a modified approach to the disclaimer requirements. Alternative A proposed applying the full disclaimer requirements that apply to radio and television communications to public communications distributed over the internet with audio or video components. Alternative A also proposed applying the type of disclaimer requirements that apply to printed public communications to text and graphic public communications distributed over the internet. Finally, Alternative A proposed allowing certain small text or graphic public communications distributed over the internet to satisfy the disclaimer requirements through an ''adapted disclaimer.'' Alternative B proposed to treat internet public communications differently from public communications disseminated via print and broadcast media. Alternative B proposed a requirement that disclaimers on internet communications be clear and conspicuous and meet the same general content requirements as other disclaimers, without imposing the additional disclaimer requirements that apply to print, radio, and television communications. Alternative B also proposed to allow certain paid internet advertisements to satisfy the disclaimer requirements through an adapted disclaimer, depending on the amount of space or time necessary for a clear and conspicuous disclaimer as a percentage of the overall advertisement. In the event that an advertisement could not provide a disclaimer even through a technological mechanism, Alternative B proposed to create an exception to the disclaimer requirement specifically for paid internet advertisements.

In May 2018, the Commission held a hearing on the regulatory changes

[3] On November 2, 2016, the Commission published in the **Federal Register** a Notice of Proposed Rulemaking in a separate rulemaking: Technological Modernization, 81 FR 76416 (Nov. 2, 2016); *see also* 87 FR 54915 (Sept. 8, 2022) (request for additional comment). That NPRM proposed changing the reference to ''website'' in the definition of ''public communication'' to ''website or internet-enabled device or application.'' The purpose of the proposed change was to reflect post-2006 changes in internet technology—such as the development of mobile applications (''apps'') on smartphones and tablets, smart TVs and devices, interactive gaming dashboards, e-book readers, and wearable network-enabled devices such as smartwatches and headsets—and to make the regulatory text more adaptable to the development of future technologies. The Commission asked several questions about its proposed change, including whether the term ''internet-enabled device or application'' is a sufficiently clear and technically accurate way to refer to the various media through which paid internet communications can be sent and received; whether there is a better way to refer to them; and whether it would help to provide examples of such paid media. The Commission has decided to amend the definition of ''public communication'' in the instant rulemaking because the term is closely tied to the internet communication disclaimer requirements. *See* NPRM at 12865.

proposed in the NPRM and received testimony from 18 witnesses over the course of two days. The witnesses included campaign finance reform organizations, experts in technology and advertising, and political party committees. The witnesses testified on issues relating to defining ''public communications,'' how internet advertising has evolved and how it is used, incorporating flexibility in the regulations to accommodate new technologies as well as business decisions, and how internet communications are different from print and broadcast media.

Finally, on June 20, 2019, the Commission made public two alternative proposals from Commissioners, seeking additional public comment on updated proposed revisions. Proposal A would have provided that ''[t]he term general public political advertising shall not include communications over the internet, except for (1) communications produced for a fee and those placed or promoted for a fee on another person's website or digital device, application, service, or platform, and (2) such communications included in section (1) that are then shared by or to a website or digital device, application, service, or platform.''[4] It would have provided that internet public communications must include full disclaimers similar to those already required for print, radio, and television communications, including the stand-by-your-ad requirements for radio and television advertisements. Proposal A also provided that the small items and impracticable exceptions would not apply to internet public communications, but that an adapted disclaimer may be used for a communication containing text or graphic components when it would be impracticable to include a full disclaimer ''due to factors inherent to the technology.'' internet Ad Disclaimers Rulemaking Proposal (June 20, 2019) (''Proposal A'').[5]

Proposal B did not include a proposed revision to the definition of ''public communication,'' and provided that an adapted disclaimer may be used for ''[a]ny internet public communication that cannot reasonably provide a disclaimer on the face of the communication.'' Internet Communication Disclaimers, Proposed Rule (June 20, 2019) (''Proposal B'').[6] In response to these proposals, the Commission received five comments, three of which did not express a preference for one of the alternative proposals, and two of which supported Proposal A.

II. Revised 11 CFR 100.26—Definition of ''Public Communication''

As set forth below, the Commission is revising section 100.26, defining ''public communication,'' to clarify how it applies to general public political advertising over the internet, and—in light of the nuances of internet advertising and the rapid pace of technological change—to ensure that the disclaimer rule also applies appropriately to newer forms of general public political advertising over the internet.

Commission regulations require a disclaimer for any ''public communication'' that contains express advocacy or solicits a contribution, and for all public communications by political committees. 11 CFR 110.11(a). The current definition of ''public communication'' includes only those internet communications ''placed for a fee on another person's website.'' 11 CFR 100.26. Since the Commission promulgated this definition in 2006, internet activity has expanded from blogging, websites, and listservs to include social media networks (Facebook, Twitter, and LinkedIn), media sharing networks (YouTube, Instagram, TikTok, and Snapchat), streaming applications (Netflix, Hulu), and mobile devices and applications, as well as wearable devices (smart watches, smart glasses), home devices (Amazon Echo), virtual assistants (Siri, Alexa), and smart TVs and devices (home appliances, digital commercial billboards, and displays). As one commenter noted in response to the ANPRM, ''[a]s consumers move toward virtual and augmented reality services, wearable technology, screenless assistants, and other emerging technologies, there is every reason to predict that advertisers will demand the ability to reach voters and customers on those technologies, and, in turn, new advertising configurations that have not yet been imagined will be developed.''

In the instant NPRM, the Commission cited its earlier proposal in the Technological Modernization rulemaking to update the definition of ''public communication'' to account for new technologies. NPRM at 12868 (citing Technological Modernization (''Technology NPRM''), 81 FR 76416 (Nov. 2, 2016)). In both NPRMs, the Commission proposed to revise the definition of ''public communication'' to clarify how the definition applies to newer forms of general public political advertising on the internet. NPRM at 12868 (citing Technology NPRM). Specifically, the Commission proposed to revise the definition to include communications placed for a fee on another person's ''internet-enabled device or application,'' in addition to the existing inclusion of communications placed for a fee on another person's website. *Id.;* Technology NPRM at 76433–34. In both NPRMs, the Commission highlighted the fact that when it promulgated the existing definition of ''public communication'' in 2006, it ''focused on websites because that was the predominant means of paid internet advertising at the time,'' and explained that in 2006 it ''analogized paid advertisements on websites to the forms of mass communication enumerated in the definition of 'public communication' in the [Act] because 'each lends itself to distribution of content through an entity ordinarily owned or controlled by another person.' '' NPRM at 12864 (citing 2006 internet E&J, 71 FR at 18594); 52 U.S.C. 30101(22)); *see also* Technology NPRM at 76433.

The purpose of the change proposed in both NPRMs was ''to reflect post-2006 changes in internet technology—such as the development of mobile applications ('apps') on smartphones and tablets, smart TVs and devices, interactive gaming dashboards, e-book readers, and wearable network-enabled devices such as smartwatches and headsets—and to make the regulatory text more adaptable to the development of future technologies.'' NPRM at 12864–65; *see also* Technology NPRM at 76433–34. In pursuit of its goal of updating the definition of ''public communication'' to reflect recent technological changes and to accommodate future changes, the Commission asked ''whether revising the definition to include communications placed for a fee on another person's 'internet-enabled device or application,' in addition to communications placed for a fee on another person's website, would be a clear and technically accurate way to refer to the various media through which paid internet communications can be and will be sent and received.'' NPRM at 12868. The Commission asked whether it was clear that both the placement-for-a-fee element and the third-party element would apply to websites, internet-enabled devices, and internet applications.

All but one commenter supported the revisions proposed by the Commission, though a subset of supporters suggested

[4] *https://sers.fec.gov/fosers/showpdf.htm?docid=402921.*

[5] *https://sers.fec.gov/fosers/showpdf.htm?docid=402921.*

[6] *https://sers.fec.gov/fosers/showpdf.htm?docid=403127.*

the Commission make additional revisions. For instance, one commenter stated that the proposed definition of ''public communication'' ''is generally appropriate and will remain relevant as technology advances, but that it could be modified slightly to be clearer''—specifically, to ''more accurately capture[ ] the requirement for payment and a website, platform or device other than the speaker's own.'' Several commenters argued that ''placed for a fee'' should be included in the definition to include any future communication methods. Others suggested revising the definition by adding the term ''services'' in order to make the term more expansive to include future technology, or to add the term ''promoted for a fee'' to capture individuals paid to share content in cases where no payment is made to a platform. One commenter supported adding those who promote advertisements to the definition on the grounds that promotion multiplies the benefit of a given advertisement by widening its distribution to different audiences and all audiences should be aware of the sponsorship information. One commenter opined that the cost of producing content should trigger a disclaimer even if the content is posted for free. Other commenters proposed adding references to additional types of digital media, such as social media, platforms or video games.

Only one commentator opposed revision of the current definition, recommending instead that the Commission evaluate each new technology under the current definition on a case-by-case basis. In the alternative, this commenter suggested that if the definition is to be revised, it should apply only to communications above a specific monetary threshold, whether calculated on a per-communication basis, or based on an aggregate amount per speaker. The commenter also proposed that the term ''internet-enabled device or application'' be replaced with references to specific technologies.

Based on the comments received, the Commission has decided to revise the definition of ''public communication'' to better accommodate technological changes and reflect the range of ''media through which paid internet communications can be and will be sent and received.'' In doing so, it intends to regulate only communications placed for a fee ''through an entity ordinarily owned or controlled by another person,'' analogous to the forms of ''public communication'' already included in the definition. NRPM at 12868. The Commission is not otherwise altering its existing interpretation of the term ''public communication'' or ''general public political advertising.''

The new definition of ''public communication'' includes ''communications placed for a fee on another person's website, digital device, application, or advertising platform.'' This new definition implements the Commission's goals of including the range of current internet media and being adaptable to the development of future technologies. It also reflects the Commission's determination that—for purposes of the definition of ''public communication''—there is no basis to distinguish between paid advertising on a ''website'' and paid advertising via other internet-enabled technologies. The new definition therefore explicitly includes communications not only in the form of paid ads on websites, but also paid ads that otherwise meet the definition of ''general public political advertising'' and are disseminated via the internet or media that rely on the connectivity of the internet (including social media networks, streaming platforms, mobile applications, and wearable devices). This is because, like the more traditional forms of paid communications that are specifically listed in the existing definition of ''public communication,'' these forms of paid internet communications are inherently owned or controlled by third parties.

In response to the NPRM, the Commission received numerous comments stating that while the proposed additions to the definition were appropriate, they were not sufficient to cover the range of paid internet communications in current use or flexible enough to cover those yet to be developed. The Commission also received comments stating that in addition to ''placing'' a communication for a fee, internet advertising is generally understood to include ''promoting'' a communication for a fee to amplify its reach and that omitting paid promotion from the definition of ''public communication'' would similarly leave the definition incomplete.

The Commission is further revising the definition of ''public communication'' to clarify that it covers general public political advertising on various types of internet media that may not be captured by the existing definition (*i.e.,* communications on digital devices, applications, or advertising platforms). This is to ensure that the same disclaimer requirements apply to general public political advertising across the internet ecosystem. As one commenter stated, ''[w]ebsites are only one type of digital communication that use the internet, and they are carrying a decreasing portion of internet traffic. Indeed, many, and perhaps most, political communications are not on websites.'' This commenter also noted that smartphones, tablet apps and video streaming are better characterized as ''devices,'' ''platforms,'' or ''applications,'' rather than websites, and that the ''Internet of Things'' will likely become increasingly prevalent in the future. The Commission agrees and has revised the definition of ''public communication'' to include not only communications on another person's ''website,'' but also those on another person's ''digital device, application, or advertising platform.'' *See* NPRM at 12865 (''[t]he Commission has decided to reintroduce the proposed change to the definition of 'public communication' in this rulemaking for the limited purpose of determining whether the term 'internet-enabled device or application' is a sufficiently clear and technically accurate way to refer to the various media through which paid internet communications can be sent and received.'').

The Commission does not agree with a commenter who opposed changing the definition on the theory that it ''presumptively extend[s] federal regulation to all future technology indefinitely'' and that the Commission instead should continue to assess emerging technologies on a case-by-case basis to see whether they are included in the definition. The definition does not extend to ''all future technology,'' but only to general public political advertising whose ''placement'' is ''for a fee,'' and which is distributed via a ''website, digital device, application, or advertising platform'' or analogous form of internet-enabled technology owned or controlled by a third party. Moreover, a system wherein the Commission would be called upon to determine whether a given technology falls within the definition on a case-by-case basis is inefficient and cumbersome for both regulated parties and the Commission. As internet communications continue to constitute greater proportions of political speech, revising the definition to explicitly encompass more than website communications provides clearer guidance to the public as to how the rule applies.

New 11 CFR 110.11—Disclaimer Requirement for Internet Public Communications and Adapted Disclaimers

1. New 11 CFR 110.11(c)(5)—Disclaimer Requirement for Internet Public Communications

The Act and Commission regulations impose specific requirements for disclaimers on printed, radio, and television communications. *See* 52 U.S.C. 30120(a), (d); 11 CFR 110.11(c)(2)–(4). For printed communications, requirements for type size, color contrast, and placement on the page are designed to ensure that the disclaimers will be visible. 11 CFR 110.11(c)(2). Requirements for disclaimers on radio and television communications vary, depending on whether a candidate or another person pays for or authorizes the communication. Radio communications paid for or authorized by a candidate must include an audio statement spoken by the candidate, identifying the candidate and stating that the candidate has approved the communication. 52 U.S.C. 30120(d)(1)(A); 11 CFR 110.11(c)(3)(i). Radio communications that are not paid for or authorized by a candidate must include an audio statement identifying the person paying for the communication and stating that that person ''is responsible for the content of this advertising.'' 52 U.S.C. 30120(d)(2); 11 CFR 110.11(c)(4)(i). Television, broadcast, cable, or satellite communications paid for or authorized by a candidate must include a statement by the candidate, identifying the candidate and stating that the candidate has approved the communication, either through a full-screen view of the candidate making the statement or by a voice-over accompanied by a ''clearly identifiable photographic or similar image'' of the candidate; these communications must also include a similar statement ''in clearly readable writing'' at the end of the communication. 52 U.S.C. 30120(d)(1)(B); 11 CFR 110.11(c)(3)(ii)–(iii). Television, broadcast, cable, or satellite communications that are not paid for or authorized by a candidate must include the audio statement required by 11 CFR 110.11(c)(4)(i) and conveyed by a ''full-screen view of a representative'' of the person making the statement or in a voice-over by such person; these communications must also include a similar statement ''in clearly readable writing'' at the end of the communication. 52 U.S.C. 30120(d)(2); 11 CFR 110.11(c)(4)(ii)–(iii).

In the years since the definition of ''public communication'' was revised to include paid website advertising, technological developments have expanded the available formats and functionality of internet advertising. Many internet advertisements today include video, audio, and graphic components beyond the limited text available in earlier internet advertising considered by the Commission, as well as beyond the text and audiovisual components of print and broadcast media.

Thus, the Commission proposed in the NPRM to add regulatory provisions clarifying, for various types of paid internet public communications, when and how the disclaimer requirements apply. The Commission sought comment on two alternative approaches, noting that ''[t]he two proposals need not be considered as fixed alternatives; commenters are encouraged to extract the best elements of each, or suggest improvements or alternatives, to help the Commission fashion the best possible rule.'' NPRM at 12864. Alternative A would have applied the full disclaimer requirements that now apply to radio and television communications, including the stand-by-your-ad content requirements, to public communications distributed over the internet with audio or video components, ''based on the premise that these advertisements are indistinguishable from offline advertisements that may be distributed on radio or television, broadcast, cable, or satellite in all respects other than the medium of distribution.'' *Id.* at 12870. Further, the Commission noted that the disclaimer requirements for radio and television communications ''have been in operation for 15 years and are, therefore, familiar to persons paying for, authorizing, and distributing communications. Moreover, by applying the specifications for radio and television communications to audio and video communications distributed over the internet, the proposed regulations would ensure that internet audio ads could air on radio and internet video ads could air on television without having to satisfy different disclaimer requirements.'' *Id.* at 12870. Alternative A also proposed to apply disclaimer requirements that now apply to printed public communications to text and graphic public communications distributed over the internet and proposed to establish a ''safe harbor'' for disclaimers appearing in ''letters at least as large as the majority of the other text in the communication''—tracking the current approach for disclaimers in printed materials—without making it a requirement.

Alternative B proposed to treat internet communications differently from communications disseminated via print and broadcast media, on the basis that the internet is a unique medium of communication and internet advertising is ''inherently more diverse than a simple transition of similar content from print or broadcast television,'' as it includes varying platforms, sizes, devices, individualized settings, interactivity, and duration. *Id.* at 12871. Alternative B, therefore, would have required disclaimers on internet communications to be clear and conspicuous and to meet the same general content requirement as other disclaimers, but without imposing additional specific disclaimer requirements that apply to print, radio, or television communications, such as type sizes, duration, or specific content.

Both alternatives also proposed to allow alternative means of satisfying the disclaimer requirement for internet public communications that could not accommodate full disclaimers. These proposals, discussed further below, would have allowed for adapted disclaimers that provided the name of the person who paid for a communication and a technological means of accessing a full disclaimer.

The Commission received comments supporting and opposing aspects of both proposals. On the question of applying existing radio and television stand-by-your-ad requirements to their analogues in internet communications, commenters were roughly equally divided.

Commenters supporting Alternative A noted that under this alternative, more information would be available to the viewer, that it was flexible while promoting transparency, and that Alternative A was more likely to lead to disclaimer information appearing on the face of the communication, which, they argued, should be the default position. One commenter noted that where there is a divergence between the nature of online and traditional advertising, this difference supported more Commission scrutiny rather than less because of the availability of microtargeting for internet advertising.

One commenter argued that it would be anomalous to apply the stand-by-your-ad requirements to a television advertisement distributed through a cable television network, but not to apply those requirements to the same advertisement distributed on a streaming internet platform by the same television station. The commenter also argued that stand-by-your-ad requirements do not impose any additional cost on the advertiser in the

online space, and that if questions arise concerning their application to unusual formats, the Commission should address these scenarios case-by-case rather than afford digital communications a general exemption.

In support of requiring disclaimers to appear on the face of a communication, one commenter stated that the click-through rate for ads containing links is less than 1 percent. Some commenters expressed their conviction that technical innovation will increasingly enable the requisite information to appear on the face of the communication, and that Alternative B would remove an incentive for technology companies to innovate by exempting communications from disclaimer requirements even when technical constraints would not preclude a disclaimer. Some comments noted that under Alternative B it would be possible to manipulate the content of the ad, such as the name of the sponsor, in order to qualify for exemption from disclaimer requirements. One commenter stated that ''[a]lthough at first glance 10% appears to be an objective standard, in reality it is largely within the control of the advertiser. For example, a person seeking to avoid disclaimers might form an independent-expenditure-only committee or a 501(c)(4) nonprofit with an intentionally overlong name that would exceed 10% of many digital advertisements.''

One commenter, expressing a preference for Alternative A, recommended modifying it to require ad sponsors to report their shortened as well as their full names (see discussion below for more detail) if they use their shortened names in the communication, and to require that disclaimers be placed in text as a title or headline of ads containing multimedia aspects. One commenter supported Alternative A's rule for allowing an adapted disclaimer (discussed below) but opposed specific requirements for internet ads. One commenter recommended that the Commission require that disclaimers be made accessible to those with disabilities, who constitute, according to the commenter, nearly 20 percent of the population.

Commenters supporting Alternative B stated that they preferred its flexibility, with one commenter suggesting modifying Alternative B to allow audio disclaimers of no more than four seconds. These commenters stated that Alternative B's greater flexibility would render it more readily applicable to potential future technologies.

Several commenters also questioned whether Alternative A's extension of current radio and television disclaimer specific requirements to internet communications is supported by statutory authority, noting that section 30120(a) applied to radio and television communications when originally enacted, and that it might be overbroad for the Commission to apply the law to internet activity. In response, other commenters argued that current statutory authority would support extending the current disclaimer regime to the internet, with one commenter noting that although section 30120(a) does not refer to the internet, it does not expressly preclude application to the internet either.

One commenter observed that Alternative B has parallels in existing regulatory exceptions for small and impracticable items. One commenter stated that ''Alternative B's most important feature is its inclusion of a safe harbor provision, allowing speakers to use alternative disclaimers when the standard disclaimer would occupy more than 10% of the time or space of the underlying communication. Adopting this policy would ensure the Commission does not unduly burden speakers, interfere with their communications, or increase the cost of their communications.'' One commenter argued that Alternative B provides a bright line for advertisers that could be further enhanced by defining other phrases, such as ''on the face of the communication'' or ''clear and conspicuous.'' The commenter stated that if the Commission were to adopt a more nuanced approach, the standards should be geared to the advertiser's chosen communication medium. Another commenter argued that, to the extent that it might render certain short-form advertisements too expensive or impractical, Alternative A might be unconstitutional. Several commenters stressed the degree to which the current communicative landscape differs from that contemplated when the stand-by-your-ad requirements were enacted. One commenter noted that the current disclaimer regime dates from a time when radio and television were prominent, while the Commission's 2006 internet rulemaking contemplated graphic website advertisements. This commenter opined that rules promulgated now, in an environment of social media and apps, need flexibility for future technical innovation. One commenter noted that the former advertising environment was simpler; there were radio, television, newspapers, magazines and billboards, in which there were one-to-one relationships between stations, companies and advertisers. The commenter stated that in the online environment, in contrast, different components of an advertisement might be delivered or mediated by different servers. Other commenters noted that the online advertisement differs from the traditional advertisement by virtue of its greater interactivity with the user.

Some commenters found aspects of both alternatives unsatisfactory. One commenter urged the Commission to allow the market to determine the appropriate threshold for when an adapted disclaimer would be appropriate. The commenter argued that disclaimers are not as important as the substance of the advertising, that individuals click on links in advertisements not so much to find disclaimers as to learn whether the advertisement is true, and that making assumptions based on an organization's name can be misleading. Another commenter stated a preference for not applying disclaimer rules to ordinary internet users and expressed the view that both alternatives are overbroad and need to incorporate more technical specifications. Other commenters argued that both alternatives could impose a burden on speech and that any disclaimer requirement would detract from the speaker's ability to communicate a message.

The Commission agrees with the commenters who generally support the establishment of a disclaimer rule specific to internet public communications. Some commenters also noted that private standards enforced by platforms vary widely and that some form of standardization is necessary to ensure consistency. One platform apprised the Commission of efforts it had undertaken in this regard, but as another commenter pointed out, these may change at any time for legitimate commercial reasons. The Commission disagrees with the argument that any application of disclaimer rules to general public political advertising on the internet would be unconstitutional.

Based on the comments received, the Commission is adding a new paragraph (c)(5) to section 110.11, setting forth specific disclaimer requirements for internet public communications. New section 110.11(c)(5)(i) first defines ''internet public communication'' as ''any public communication over the internet that is placed for a fee on another person's website, digital device, application, or advertising platform.'' This language parallels the revised definition of ''public communication'' in section 100.26, and is similar to language proposed in Alternative B. The definition of ''internet public

communication'' applies for the purposes of section 110.11 and serves to streamline references to this type of communication in the text of the regulations.

The Commission does not agree with one commenter's argument that providing a definition of ''internet public communication'' that includes those who adopt others' political speech as their own by paying to place that speech on the internet (such as by paying a social media platform to ensure more advantageous treatment of a third-party's advertisement in the platform's search or prioritization algorithm), rather than confining the definition to those who originally pay to place the speech, would present a ''constitutional infirmity'' under the final rule. Like the revised definition of ''public communication,'' the defined term ''internet public communication'' relies on the characteristics of the communication itself, not the role any persons may have had in its creation or distribution, and it encompasses only paid communications. Therefore, individuals who share someone else's speech without paying to distribute it will not be affected by this revision.

New paragraph (c)(5)(ii) provides that ''[a]n internet public communication must include a disclaimer that complies with the requirements of paragraphs (b) and (c)(1) of this section. The disclaimer requirement under this paragraph applies to any person that pays to place an internet public communication, regardless of whether that person originally created, produced, or distributed the communication.'' This provision states the requirement that disclaimers must be included on internet public communications, and clarifies that, as with the existing disclaimer requirements, the provision applies to any communication that meets the definition of an ''internet public communication,'' without examining who may have played various roles in the creation and dissemination of the communication beyond the identity of the payor and whether a candidate authorized the communication.

Finally, new 11 CFR 110.11(c)(5)(iii) sets forth the disclaimer requirements that are specific to particular types of internet public communications, in addition to the existing requirements of paragraphs (b) and (c)(1) that apply to all communications requiring disclaimers. Paragraphs (c)(5)(iii)(A)–(C) provide that a disclaimer required for an internet public communication must: (a) for such communications with text or graphic components, include the required written disclaimer, such that the disclaimer can be viewed without the viewer taking any action; (b) be of sufficient type size to be clearly readable by the recipient of the communication; and (c) be displayed with a reasonable degree of color contrast between the background and the disclaimer's text. New paragraph (c)(5)(iii) also includes requirements specific to video and audio communications. The new provision at paragraph (c)(5)(iii)(D) requires that for an internet public communication in which the disclaimer is displayed within a video, the disclaimer must be visible for at least 4 seconds and appear without the recipient of the communication taking any action. For an internet public communication with an audio component and no video, graphic, or text components, paragraph (c)(5)(iii)(E) states that the disclaimer must be included within the audio component of the communication.

New paragraph (c)(5) therefore combines aspects of Alternatives A and B by treating internet public communications similarly to print, radio, and television communications insofar as it imposes specific requirements on particular types of communications that are analogous to those imposed on print and broadcast media, while also accounting for the ways in which internet public communications differ from print and broadcast media in other respects. The new internet disclaimer provisions do not impose the stand-by-your-ad requirements applicable to radio and television advertisements on internet public communications.

Paragraphs 110.11(c)(5)(iii)(A)–(C) do not apply to audio-only internet public communications. These provisions concern written disclaimers and set readability requirements for their text size and contrast, and thus are inapplicable to audio-only communications. In contrast, paragraph (c)(5)(iii)(E) applies solely to audio-only internet public communications, specifying that for such communications the disclaimer must be an audio statement contained within the audio communication.

One commenter stated that because disclaimers on video communications may appear only for four seconds, a viewer who does not watch the part of the ad with the statement would not see the disclaimer. The Commission acknowledges that not all recipients of internet public communications will necessarily see or hear required disclaimers, but does not consider this a sufficient reason to not require their inclusion. The new rule is similar to the longstanding rule for television communications, which likewise requires disclaimers to appear for at least four seconds. *See* 11 CFR 110.11(c)(3)(iii)(B), (c)(4)(iii)(B).

The new regulation follows aspects of Alternative A by treating internet public communications similarly to print and broadcast media depending on the type of communication: (1) type size and contrast of written disclaimers must meet readability requirements similar to those required of print media and television; (2) disclaimers for internet communications consisting solely of an audio component (that is, without video, graphics, or text) must be provided within the audio component of the communication, similar to the existing requirement that radio communications must include audio disclaimers; and (3) disclaimers within internet video communications must be visible for at least 4 seconds, similar to the existing duration requirement for disclaimers on television communications. *See* 11 CFR 110.11(c)(2), (3)(i), (3)(iii).

The new regulation retains the principle of Alternative B that internet public communications may differ from print and broadcast media. First, new paragraph (c)(5)(iii)(A) requires that ''an internet public communication with text or graphic components must include the written disclaimer required by this paragraph, such that the disclaimer can be viewed without taking any action.'' Therefore, any internet public communication that contains text or graphic elements must include a written disclaimer, even if the communication also includes video or audio components. For example, an audio advertisement might be presented on a social media platform within a panel also containing a written description. Paragraph (c)(5)(iii)(A) requires that because the communication includes a text component, it must include a written disclaimer.

In addition, in some cases a viewer must take action to access some or all of the components of an internet public communication by, for example, clicking on a link or opening a pop-up window. New paragraphs (c)(5)(iii)(A) and (D) specify that disclaimers must be viewable without the recipient of the communication taking any additional action. For example, a graphic or video advertisement may be accompanied by a caption that contains a link to additional information. In the case of such a communication, new paragraph (c)(5) requires that the disclaimer be visible in the graphic or video, or in the caption, without the viewer having to take any additional action beyond

viewing or watching the advertisement, such as clicking on or hovering over a link. Similarly, new paragraph (c)(5)(iii)(E) requires that for an internet public communication that contains an audio component but no video, graphic, or text component, the disclaimer must be included in that audio component, so that a recipient need not take any additional action beyond listening to the advertisement to obtain the disclaimer information.

New paragraph (c)(5)(iii) also accounts for the variability and flexibility of internet communications by setting forth requirements for text size and contrast that allow for varying platforms, formats, and devices. New paragraph (c)(5)(iii)(B) requires that a disclaimer on an internet public communication ''must be of sufficient type size to be clearly readable by the recipient of the communication. A disclaimer that appears in letters at least as large as the majority of other text in the communication satisfies this requirement.'' New paragraph (c)(5)(iii)(C) requires that the disclaimer ''must be displayed with a reasonable degree of color contrast between the background and the disclaimer's text. A disclaimer satisfies this requirement if it is displayed in black text on a white background, or if the degree of color contrast is no less than the color contrast between the background and the largest text used in the communication.''

The safe harbor for disclaimer text size is similar to that proposed in Alternative A, which provided that the text size requirement is satisfied if the disclaimer appears in ''letters at least as large as the majority of the other text in the communication.'' NPRM at 12873.

In addition to the text size requirement, which parallels the text size requirement for print and television communications to ensure readability and prevent circumvention of the disclaimer requirement, the new rule also incorporates a color contrast requirement that similarly parallels the contrast requirement for print communications. Also, like the text size requirement, the color contrast requirement offers safe harbors: a disclaimer will satisfy the requirement if it is ''displayed in black text on a white background, or if the degree of color contrast is no less than the color contrast between the background and the largest text used in the communication.'' As with the text size requirement, the color contrast requirement is intended to ensure readability.

In adopting these provisions, the Commission is not applying the stand-by-your-ad requirements to internet communications. The statutory provision requiring stand-by-your-ad statements expressly applies only to radio and television ads. 52 U.S.C. 30120(d). Accordingly, the Commission does not have statutory authority to require stand-by-your-ad statements in internet public communications.

The Commission is not adopting two commenters' suggestions that any required disclaimers be machine-readable. These commenters pointed out that having machine-readable disclaimers would provide certain advantages for users. One commenter suggesting this observed that with machine-readable disclaimers, users could opt to receive monthly reports of ads they receive over time. Smart disclosure, which this commenter recommended be adopted in conjunction with machine readability, could warn users of bad links and could allow groups of users using browser extensions to track malicious links and alert the Commission of these. The Commission is not adopting this proposal because it is beyond the scope of the Commission's statutory authority.

2. New CFR 110.11(g)—Adapted Disclaimers

To clarify how the disclaimer requirements apply to internet public communications that are not capable of including a full disclaimer, the Commission is adding a new paragraph (g) to section 110.11, setting forth an alternative that applies specifically to internet public communications where a full disclaimer cannot be included due to character or space constraints intrinsic to the advertising product or medium. As discussed above, Commission regulations already contain certain exceptions to the general disclaimer requirements, namely the small items and impracticable exceptions. 11 CFR 110.11(f)(1).

Alternatives A and B both proposed that some internet public communications could satisfy the disclaimer requirement by means of an ''adapted disclaimer,'' which would include an abbreviated disclaimer on the face of the communication, and an indicator that a technological mechanism was available to access a full disclaimer. Both alternatives proposed that ''an internet public communication that provides an adapted disclaimer must provide some information on the face of the advertisement, and both alternatives require such information to be clear and conspicuous and to provide notice that further disclaimer information is available through the technological mechanism.'' NPRM at 12875.

The two alternatives differed as to when an adapted disclaimer could be used in place of a standard disclaimer. Alternative A would have allowed the use of an adapted disclaimer when a full disclaimer could not fit on the face of a text or graphic internet communication ''due to external character or space constraints.'' *Id.* at 12874. Under this alternative, the determination of whether an internet communication could use an adapted disclaimer was intended to be an objective one: ''the character or space constraints intrinsic to the technological medium are intended to be the relevant consideration, not the communication sponsor's subjective assessment of the 'difficulty' or 'burden' of including a full disclaimer.'' *Id.*

Alternative B would have allowed the use of an adapted disclaimer when a full disclaimer would occupy more than a certain percentage of an internet public communication's available time or space. Further, under Alternative B, two tiers of adapted disclaimers would have been permissible, depending on the time or space available in the communication to accommodate the disclaimer. The proposed first-tier adapted disclaimer would have required the identification of the payor plus an indicator on the face of the communication, while the proposed second-tier adapted disclaimer would have required only an indicator on the face of the communication.

The two alternatives also differed as to what information must be presented on the face of the communication. Alternative A proposed that an ''adapted disclaimer'' would have consisted of ''an abbreviated disclaimer on the face of a communication in conjunction with an indicator through which a reader can locate the full disclaimer'' required. *Id.* at 12875. Alternative A would have further required that the adapted disclaimer identify the person or persons who paid for the communication, ''in letters of sufficient size to be clearly readable by a recipient of the communication.'' *Id.* at 12875–76.

Under Alternative B's proposed two-tiered approach, the first tier would have allowed for an adapted disclaimer that included both the payor's name, either in full or by ''a clearly recognized abbreviation, acronym, or other unique identifier by which the payor is commonly known,'' along with an indicator similar to that included in Alternative A. *Id.* at 12876. Under Alternative B, the flexibility to use either a payor's full name or a clearly

recognized abbreviation or acronym was ''intended to address internet public communications that might not otherwise conveniently or practicably accommodate the payor's name, such as character-limited ads, or where the payor's name is unusually lengthy, or where the payor wishes to use the ad to promote its social media brand.'' *Id.* at 12877. If the space or time necessary for a clear and conspicuous tier-one adapted disclaimer would occupy more than ten percent of the communication, the proposed second tier would have required only an indicator on the face of the communication. *Id.*

Both alternatives proposed ''that a technological mechanism used to provide access to a full disclaimer must do so within one step,'' that the additional step be ''apparent in the context of the communication,'' and that the disclaimer, once reached, be clear and conspicuous. *Id.* at 12877–78. Both alternatives also provided similar illustrative lists of examples of technological mechanisms that could be used as part of an adapted disclaimer. For both alternatives these included, but were not limited to, ''hover-over mechanisms, pop-up screens, scrolling text, rotating panels, or hyperlinks to a landing page with the full disclaimer.'' *Id.* at 12878. Alternative B also proposed to include ''voice-over,'' ''mouse-over,'' and ''roll-over'' mechanisms. *Id.* at 12880.

Alternative B also proposed an exception to the disclaimer requirements for ''any internet public communication that can provide neither a disclaimer in the communication itself nor an adapted disclaimer.'' *Id.* at *12879.* This exception was intended to replace, for internet public communications, the existing small items and impracticable exceptions.

Commenters were generally split on whether an adapted disclaimer should be available when a full disclaimer cannot fit due to external constraints, as proposed in Alternative A, or when a full disclosure would exceed a bright line in terms of space or time, as proposed in Alternative B. Several commenters felt that adapted disclaimers should only be used as a last resort when ''character or space constraints intrinsic to the technological medium,'' as opposed to self-imposed limitations merely reflecting the preferences of an online advertiser or platform, would not allow for a full disclaimer. One commenter noted that Alternative A's ''cannot fit'' language references impossibility and is, therefore appropriate. Another commenter believed that permitting adapted disclaimers on ''public communications with text or graphic features but without a video or audio component'' that had character or space limits intrinsic to the medium was a ''forward-thinking'' approach applicable to all platforms.

Other commenters found Alternative A's use of ''technological constraints'' that ''cannot fit'' too ambiguous, needing further clarification. Two commenters noted that rules or a framework based on communication size are not practical or effective, because the same ad could be used ''across different platforms.'' Another found that Alternative A did not account for the ''burden'' experienced by the speaker and is too restrictive. One commenter noted that rules focused on pixels, characters, seconds, font size, contrast and other visual factors were ''too inflexible to withstand future technological'' advancements. Another commenter recommended allowing ''business decisions'' about ad size, made in the ordinary course of business by ad sellers, to justify the use of an adapted disclaimer. One commenter expressed strong support for adapted disclaimers, preferring Alternative B because it allows more flexibility, arguing that Alternative A is too oriented toward print and broadcast media. However, the commenter stated that both alternatives are insufficiently sensitive to future technological changes, predicting that speech recognition technology will one day be the primary means of interacting with the internet. At the same time, this commenter argued that both alternatives should develop an adapted disclaimer scheme for all audio, video and banner ad formats; Alternative A in particular did not do this for video and audio, according to the commenter.

At least two commenters suggested that the advisory opinion process could resolve when an adapted disclaimer was appropriate on a case-by-case basis and viewed the advisory opinion process as a way to handle questions surrounding digital advertisements' continuing complexity and one commenter suggested that perhaps an expedited advisory opinion process could be designed for these questions. Another commenter expressed skepticism, however, about the utility of resorting to the advisory opinion process to resolve ambiguities in interpretation and expressed a preference for bright-line rules because of this while a second commenter opined that it would be difficult to resort to the advisory opinion process for this purpose close to an election; rather, if this situation were faced, the commenter would be inclined not to run the advertisement.

Commenters were also split on the 10% rule proposed in Alternative B. Several commenters noted that a 10% bright line would provide advertisers with the ''opportunity to game the rules to deny the public disclaimer information.'' One commenter felt that the choice of 10% was based on untested assumptions rather than empirical data. Others described the 10% proposal as ''arbitrary'' and ''not technologically neutral'' or ''impractical and confusing'' and ''hard to apply and enforce.'' Two commenters opined that Alternative B's two-step process was too complicated and unclear, and sacrificed clarity for expediency.

Some commenters found 10% to be a reasonable percentage that ''provides for disclosure but does not infringe on the message of the ad.'' Other commenters supported a ''bright line'' because it imposes less of a burden on speech. For example, one commenter stated that ''[r]equiring potential speakers to spend the time and resources to seek an advisory opinion [ ] imposes burdens of a constitutional magnitude, especially in a medium conducive to speakers with limited resources.'' Another commenter stated that ''[w]hile the First Amendment does not require that a speaker's message take a certain percentage of the advertisement space, taking 10% of the advertisement space for which a speaker has paid is far more reasonable than taking 33% of the space.'' Other commenters worried that any bright line was arbitrary and a ''one-click away rule'' would be a better choice. Some commenters, while agreeing in principle with a defined percentage, suggested different percentages. One suggested 4%, while another, interpreting the *Citizens United* decision to tolerate 4-second disclaimers in 10-second advertisements, argued that any percentage up to 40% would be tolerable. Other commenters, however, argued against a 40% threshold.

Several commenters argued that even with an adapted disclaimer, the face of the advertisement should at a minimum contain a ''paid for by'' statement with the name of the sponsor. Certain commenters favoring this position cited empirical studies showing that only a small percentage of links in online advertisements are actually clicked by users. Commenters also stated their preference for having the full information appear only one click away if a technological mechanism were to be used. Two commenters in this category opined that in addition to these, the user should be able to learn why he or she received the advertisement—one commenter referring to this as

''algorithmic transparency,'' signifying that advertisers should be required to disclose their targeting methods and that voters should be able to learn why they have been targeted.

One commenter argued that the Commission should adopt a provision that the disclaimer requirements could be satisfied by an icon it had developed in the online commercial advertising domain that would be adapted by the commenter's organization to the realm of political advertising, and which it characterized as widely recognized and understood. Other commenters opined on this proposed self-regulatory approach, arguing that Commission oversight would still be needed, and noting that as a private entity, the commenter or any other provider of an online advertising medium could modify or rescind the program at any time based upon considerations unrelated to ensuring implementation of the Act.

After considering the comments received, the Commission has decided to provide an adapted disclaimer option for internet public communications. The new 11 CFR 110.11(g) provides that the disclaimer requirement may be satisfied with an adapted disclaimer when the full disclaimer ''cannot be provided or would occupy more than 25 percent of the communication due to character or space constraints intrinsic to the advertising product or medium.'' The Commission has previously allowed for a modified disclaimer under certain circumstances, recognizing that, although the ''physical and technological limitations'' of a communication medium may ''not make it impracticable to include a disclaimer at all,'' technological or physical limitations may extend to ''one particular aspect of the disclaimer'' requirements. Advisory Opinion 2004–10 (Metro Networks) at 3. In such circumstances, the Commission concluded that a disclaimer was required but permitted modifications or adaptations of the technologically or physically limited aspects of the communication medium. *See id.* at 3–4 (concluding that reporters reading sponsorship message live from aircraft or mobile units could read stand-by-your-ad language, rather than candidate who was not physically present). In the new 11 CFR 110.11(g), an ''adapted disclaimer'' is defined as ''a clear statement that the internet public communication is paid for, and that identifies the person or persons who paid for the internet public communication using their full name or a commonly understood abbreviation or acronym by which the person or persons are known, which is accompanied by: (1) an indicator and (2) a mechanism.'' New 11 CFR 110.11(g)(1)(i). An ''indicator'' is defined as ''any visible or audible element associated with an internet public communication that is presented in a clear and conspicuous manner and gives notice to persons reading, observing, or listening to the internet public communication that they may read, observe, or listen to a disclaimer satisfying the requirements of paragraphs (b) and (c)(1) of this section through a mechanism.'' New 11 CFR 110.11(g)(1)(ii). A ''mechanism'' is defined as ''any use of technology that enables the person reading, observing, or listening to an internet public communication to read, observe, or listen to a disclaimer satisfying the requirements of paragraphs (b) and (c)(1) of this section after no more than one action by the recipient of the internet public communication.'' New 11 CFR 110.11(g)(1)(iii).

The new 110.11(g) combines elements of both Alternative A and Alternative B in setting forth the threshold for use of an adapted disclaimer. An adapted disclaimer may be used instead of a full disclaimer when a standard disclaimer ''cannot be provided or would occupy more than 25 percent of the communication due to character or space constraints intrinsic to the advertising product or medium.'' This rule incorporates the concept of time and space constraints inherent to the advertising medium from Alternative A, and the proposal from Alternative B to permit an adapted disclaimer depending on the percentage of the communication that would be occupied by a full disclaimer. In doing so, the Commission has adopted an objective and bright-line standard that will give the sponsors of internet public communications clear guidance as to when an adapted disclaimer may be used.

The new rule's reference to ''character or space constraints intrinsic to the advertising product or medium,'' similar to language proposed in Alternative A, is based on long-standing Commission precedent where the Commission allowed communications to include modified disclaimers due to the technological or physical limitations of the communication medium. The language is intended to make clear that the time or space available for a disclaimer depends on the limitations of the medium or technology used in a particular advertisement.

The Commission has decided to also use a percentage of the communication as the threshold for use of an adapted disclaimer, as proposed in Alternative B, with the intention that this will serve as a bright-line rule that enables speakers to determine for themselves whether they may avail themselves of this provision, rather than seek advisory opinions before engaging in political advertising online. The Commission has chosen not to specify how to measure the percentage (*i.e.,* by pixels, seconds, characters, etc.), in order that the rule may remain flexible as new technologies are developed, and that speakers may use the most appropriate measurement for their communication. The Commission's proposal of 10% in Alternative B elicited several comments opposing this threshold. Although one commenter approved of this threshold, some commenters noted that such a threshold would be easy to evade by lengthening or shortening of the name of the sponsoring organization appearing in the ad. Some commenters also argued that this percentage approach would be hyper-technical. Nevertheless, the Commission agrees with one commenter's observation that a fixed-percentage approach is preferable to a potentially more complicated approach tailored to particular kinds of communications, which might then necessitate new definitions of the terms relating to the medium and additional revisions to the rule. The Commission has adopted a 25% threshold.

The definition of ''adapted disclaimer'' requires that the communication state on its face that it is a paid communication, as proposed in Alternative A. It is especially important to clearly identify paid communications on the internet, where paid content can be targeted to a particular user and appear indistinguishable from the unpaid content that user views, unlike print and broadcast media, where paid content is transmitted to all users in the same manner and is usually offset in some way from editorial content. As one commenter observed, ''[w]ith many forms of social media, a political ad may be transmitted and retransmitted such that a viewer would have no idea that it is paid advertising.'' The Commission agrees with another commenter that ''paid for'' is necessary to ensure that the adapted disclaimer is easily interpreted by the viewer. An adapted disclaimer that includes an indicator but does not state that it is a paid communication would make it less likely that a viewer would understand the function of the indicator and access the mechanism to obtain the full disclaimer. As one commenter noted, ''[t]he average click-through rate . . . for Facebook ads across all industries is .90%.''

The definition of ''adapted disclaimer'' requires that the payor be identified ''using their full name or a commonly understood abbreviation or acronym by which the person or persons are known.'' This is similar to language proposed in Alternative B, which would have permitted an adapted disclaimer to identify the payor by full name or by ''a clearly recognized abbreviation, acronym, or other unique identifier by which the payor is commonly known.'' NPRM at 12876. Including the payor's name on the face of the communication ensures that even persons viewing the communication without accessing the full disclaimer will be able to know who is speaking and will be better able to evaluate the content of the advertisement. Allowing a payor to use an acronym or abbreviation will offer flexibility for internet public communications that might not otherwise conveniently or practicably accommodate the payor's name, such as character-limited ads, or where the payor's name is unusually lengthy. Most commenters supported allowing an acronym or abbreviated name of a payor organization. However, some questioned whether an abbreviated name or acronym would likely be recognized. The Commission opted not to constrain the use of abbreviated names or acronyms beyond the condition that any such abbreviation or acronym be commonly understood or be one by which the payor is known. The provision is modeled after a longstanding provision in the Commission's regulations that allows a separate segregated fund to include in its name a ''clearly recognized abbreviation or acronym by which [its] connected organization is commonly known.'' 11 CFR 102.14(c). Thus, many political speakers are already familiar with this standard and may have adopted abbreviations or acronyms for frequent use that are already ''commonly understood.''

The Commission has decided not to adopt the second-tier adapted disclaimer proposed as part of Alternative B, which would have permitted a speaker to include only an indicator on the face of a communication, without the name of the payor, if the space or time necessary for a clear and conspicuous tier-one adapted disclaimer would exceed a certain percentage of the overall communication.

By requiring that an indicator be ''clear and conspicuous,'' the new rule will aid voters in evaluating the message they are viewing or hearing. As set forth in paragraph (c)(1), a disclaimer ''is not clear and conspicuous if it is difficult to see, read, or hear, or if the placement is easy to overlook.'' 11 CFR 110.11(c)(1). An indicator also must be presented in a clear and conspicuous manner and therefore must not be difficult to see, read, or hear, or have a placement that is easy to overlook. The definition further provides that ''[a]n indicator may take any form including, but not limited to, words, images, sounds, symbols, and icons.'' This provides flexibility to speakers in determining the type of indicator that best serves their needs and their communication so long as it also satisfies the requirements of the regulation. Because the final rules permit an adapted disclaimer to be used for audio and video communications as well as text and graphic communications, the Commission is adopting the ''clear and conspicuous'' requirement as proposed in Alternative B, rather than ''clearly readable'' as proposed in Alternative A, in order to afford further flexibility to speakers in determining how to satisfy the requirement. *See* NPRM at 12876.

Similar to the definition of an ''indicator,'' the definition of ''mechanism'' makes clear that a wide array of technologies may be used to provide access to full disclaimers, ''including, but not limited to, hover-over text, pop-up screens, scrolling text, rotating panels, and hyperlinks to a landing page.'' The Commission agrees with commenters who recommended that the adapted disclaimer be ''tech-agnostic.'' This non-exhaustive list of technologies affords speakers a great deal of flexibility in determining the best way to provide access to a full disclaimer depending on the platform or type of message, as well as flexibility to accommodate changes in technology and types of mechanisms that have yet to be developed.

Alternatives A and B both proposed one of the key characteristics of a technological mechanism used in an adapted disclaimer: that the technological mechanism allow the person reading, observing, or listening to an internet public communication to read, observe, or listen to a full disclaimer ''without navigating more than one step away'' from the communication. NPRM at 12880; *see also* 12877–78. Both proposals explained that this meant ''the additional technological step should be apparent in the context of the communication'' and the disclaimer, once reached, should be ''clear and conspicuous.'' *Id.* at 12878. There was nearly universal agreement by commenters that the mechanism require no more than one action by the viewer in order to reach the full disclaimer information. The final rule incorporates this principle into the definition of a ''mechanism,'' providing that a mechanism used as part of an adapted disclaimer must enable access to a full disclaimer ''after no more than one action by the recipient of the internet public communication.'' The Commission is incorporating this requirement into the final rule to ensure that recipients of communications can access full disclaimer information with a minimum of additional effort beyond what would ordinarily be required to view a full disclaimer on the face of a communication.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached rules would not have a significant economic impact on a substantial number of small entities. The rules would clarify and update existing regulatory language to reflect changes in technology and would codify certain existing Commission precedent regarding disclaimers on internet communications. The rules would not impose new recordkeeping, reporting, or financial obligations on political committees or commercial vendors. The Commission therefore certifies that the rules would not have a significant economic impact on a substantial number of small entities.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 110

Political committees and parties.

For the reasons set out in the preamble, Subchapter A of Chapter I of Title 11 of the Code of Federal Regulations is amended as follows:

PART 100—SCOPE AND DEFINITIONS (52 U.S.C. 30101)

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 52 U.S.C. 30101, 30104, 30111(a), and 30114(c).

■ 2. In § 100.26, revise the second sentence to read as follows:

§ 100.26 Public communications (52 U.S.C. 30101(22)).

* * * * *

The term *general public political advertising* shall not include communications over the internet, except for communications placed for a fee on another person's website, digital device, application, or advertising platform.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

■ 3. The authority citation for Part 110 continues to read as follows:

Authority: 52 U.S.C. 30101(8), 30101(9), 30102(c)(2), 30104(i)(3), 30111(a)(8), 30116, 30118, 30120, 30121, 30122, 30123, 30124, and 36 U.S.C. 510.

■ 4. In § 110.11, add paragraph (c)(5), redesignate paragraph (g) as paragraph (h), and add paragraph (g) to read as follows:

§ 110.11 Communications; advertising; disclaimers (52 U.S.C. 30120).

* * * * *

(c) * * *

(5) *Specific requirements for internet public communications.* (i) For purposes of this section, *internet public communication* means any public communication over the internet that is placed for a fee on another person's website, digital device, application, or advertising platform.

(ii) An internet public communication must include a disclaimer that complies with the requirements of paragraphs (b) and (c)(1) of this section. The disclaimer requirement under this paragraph applies to any person that pays to place an internet public communication, regardless of whether that person originally created, produced, or distributed the communication.

(iii) In addition to the requirements of paragraphs (b) and (c)(1) of this section, a disclaimer required by paragraph (a) of this section that appears on an internet public communication must comply with the following:

(A) Except as provided by paragraph (g) of this section, an internet public communication with text or graphic components must include the written disclaimer required by this paragraph, such that the disclaimer can be viewed without taking any action.

(B) The disclaimer must be of sufficient type size to be clearly readable by the recipient of the communication. A disclaimer that appears in letters at least as large as the majority of other text in the communication satisfies this requirement.

(C) The disclaimer must be displayed with a reasonable degree of color contrast between the background and the disclaimer's text. A disclaimer satisfies this requirement if it is displayed in black text on a white background, or if the degree of color contrast is no less than the color contrast between the background and the largest text used in the communication.

(D) If the disclaimer is displayed within a video, the disclaimer must be visible for at least 4 seconds and appear without the recipient of the communication taking any action.

(E) An internet public communication with an audio component but without video, graphic, or text components must include a disclaimer that satisfies the requirements of paragraphs (b) and (c)(1) of this section within the audio component.

* * * * *

(g) *Adapted disclaimers*—(1) *Definitions.* For purposes of this section:

(i) *Adapted disclaimer* means a clear statement that the internet public communication is paid for, and that identifies the person or persons who paid for the internet public communication using their full name or a commonly understood abbreviation or acronym by which the person or persons are known, which is accompanied by: an indicator and a mechanism. An adapted disclaimer must satisfy the requirements of paragraph (c)(1) and paragraphs (c)(5)(ii) and (iii) of this section.

(ii) *Indicator* means any visible or audible element associated with an internet public communication that is presented in a clear and conspicuous manner and gives notice to persons reading, observing, or listening to the internet public communication that they may read, observe, or listen to a disclaimer satisfying the requirements of paragraphs (b) and (c)(1) of this section through a mechanism. An indicator may take any form including, but not limited to, words, images, sounds, symbols, and icons.

(iii) *Mechanism* means any use of technology that enables the person reading, observing, or listening to an internet public communication to read, observe, or listen to a disclaimer satisfying the requirements of paragraphs (b) and (c)(1) of this section after no more than one action by the recipient of the internet public communication. A mechanism may take any form including, but not limited to, hover-over text, pop-up screens, scrolling text, rotating panels, and hyperlinks to a landing page.

(2) When a disclaimer described by paragraphs (b) and (c)(1) of this section cannot be provided or would occupy more than 25 percent of the communication due to character or space constraints intrinsic to the advertising product or medium, an adapted disclaimer may be used within the communication instead.

Dated: December 1, 2022.

On behalf of the Commission,

Allen J. Dickerson,

Chairman, Federal Election Commission.

Note: The following statement will not appear in the Code of Federal Regulations.

Concurring Statement of Commissioner Sean J. Cooksey on the Final Rule for Internet Communication Disclaimers

I supported the Commission's final rule for internet communication disclaimers. While I opposed the Commission's initial draft for this rule—which would have dramatically expanded our agency's regulation of political speech online—subsequent revisions have substantially narrowed its scope. By limiting itself only to traditional paid advertising placed on the internet and providing sufficient flexibility for different kinds of ads, the revised regulation will not unduly burden freedom of speech. I believe the revised regulation also complies with the important procedural safeguards under the Administrative Procedure Act. Because of those significant improvements, I voted in favor of the revised final rule.

First, I am satisfied that this rulemaking meets the notice-and-comment requirements of the Administrative Procedure Act.[7] Although I maintain the Commission would benefit from additional public review and comments, this revised final rule removes novel regulatory expansions and represents a logical outgrowth of the proposals put forth in the Commission's 2018 Notice of Proposed Rulemaking. I believe interested parties have therefore had adequate notice and opportunity to offer feedback and criticism on the proposed amendments to the Commission's regulations, and a further comment period is not legally mandatory.[8]

Second, I believe that this revised regulation is tailored to address the distinct and often complex features of online communications without unnecessarily burdening political speech and association on the internet. The final rule permits small and unconventional online ads for which a full disclaimer is unreasonably cumbersome to instead include an ''adapted disclaimer'' that maintains the integrity of the advertisement. Similarly,

[7] *See* 5 U.S.C. 553; 52 U.S.C. 30107(a)(8).

[8] ''A rule is deemed a logical outgrowth if interested parties 'should have anticipated' that the change was possible, and thus reasonably should have filed their comments on the subject during the notice-and-comment period.'' *Ne. Md. Waste Disposal Auth.* v. *EPA,* 358 F.3d 936, 952 (D.C. Cir. 2004) (quoting *City of Waukesha* v. *EPA,* 320 F.3d 228, 245 (D.C. Cir. 2003)).

Commission regulations will maintain exemptions from disclaimer requirements for small-item advertisements and communications for which disclaimers are impracticable, such as with exceptionally short video clips.[9] Even with the revised regulation's limited purview, these safeguards are critical to maintaining regulatory flexibility for political campaigning online.

For more than two decades, the Commission has taken a light touch to regulating political activity online, in recognition of the fact that ''the internet is by definition a bastion of free political speech, where any individual has access to almost limitless political expression with minimal cost.'' [10] I believe this revised regulation for internet communication disclaimers is in keeping with that approach and will preserve the internet's special capacity to foster the exchange of political speech, ideas, and values. I will continue to stand up for Americans' First Amendment freedoms across all platforms for as long as I am on the Commission.

Dated: December 1, 2022.

Sean J. Cooksey,

Commissioner.

[FR Doc. 2022–27132 Filed 12–16–22; 8:45 am]

BILLING CODE 6715–01–P

[9] *See* 11 CFR 110.11(f).

[10] Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule, 67 FR 49063, 49072 (July 29, 2002). *See also, e.g.,* 11 CFR 100.155(a) (exempting an ''individual's uncompensated personal services related to [ ]internet activities'' and an ''individual's use of equipment or services for uncompensated internet activities'' from the meaning of ''expenditure''); Explanation and Justification for the Regulations on internet Communications, 71 FR 18589, 18589 (Apr. 12, 2006) (describing the internet as ''a unique and evolving mode of mass communication and political speech that is distinct from other media in a manner that warrants a restrained regulatory approach,'' due to its ''accessibility, low cost, and interactive features'').

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1168; Project Identifier MCAI–2022–00600–T; Amendment 39–22259; AD 2022–25–03]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2016–16–06, which applied to certain Airbus SAS Model A300 B4–603, B4–605R, and B4–622R airplanes; and Model A310–304, –324, and –325 airplanes. AD 2016–16–06 required inspections around the rivet heads of the seal retainer run-out holes at certain frames and corrective actions if necessary. This AD was prompted by a report of a crack found on a certain door frame, and a determination that other frames may also be susceptible to cracking, and that additional airplanes may be affected by the unsafe condition. This AD continues to require the actions in AD 2016–16–06 and adds airplanes, 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 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1168; 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–2022–1168.

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 to supersede AD 2016–16–06, Amendment 39–18604 (81 FR 51320, August 4, 2016) (AD 2016–16–06). AD 2016–16–06 applied to certain Airbus SAS Model A300 B4–603, B4–605R, and B4–622R airplanes; and Model A310–304, –324, and –325 airplanes. AD 2016–16–06 required inspections around the rivet heads of the seal retainer run-out holes at certain frames and corrective actions if necessary. The FAA issued AD 2016–16–06 to address cracking of the door frame, which could result in reduced structural integrity of the airplane.

The NPRM published in the **Federal Register** on September 20, 2022 (87 FR 57424). The NPRM was prompted by AD 2022–0078, dated May 4, 2022, issued by EASA (EASA AD 2022–0078) (referred to after this as the MCAI). The MCAI states that cracking on door frames 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–2022–1168.

In the NPRM, the FAA proposed to continue to require the actions in AD 2016–16–06 and add airplanes, as specified in EASA AD 2022–0078. The FAA is issuing this AD to address cracking on door frames, which could result in reduced structural integrity of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from FedEx Express, who 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 comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0078 specifies procedures for repetitive high frequency eddy current (HFEC) inspections of rivet heads of the seal retainer run-out holes at door frames (FR) 56A, FR 57A, and FR 73A for any cracking, and repair.

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 128 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2016–16–06	11 work-hours × $85 per hour = $935	$0	$935	$119,680

The FAA has received no definitive data on which to base the cost estimate for the on-condition repair specified in this AD.

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:

■ a. Removing Airworthiness Directive 2016–16–06, Amendment 39–18604 (81 FR 51320, August 4, 2016); and

■ b. Adding the following new airworthiness directive:

2022–25–03 Airbus SAS: Amendment 39–22259; Docket No. FAA–2022–1168; Project Identifier MCAI–2022–00600–T

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

This AD replaces AD 2016–16–06, Amendment 39–18604 (81 FR 51320, August 4, 2016) (AD 2016–16–06).

(c) Applicability

This AD applies to all the Airbus SAS airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category.

(1) Model A300 B4–603 and –622 airplanes.

(2) Model A300 B4–605R and –622R airplanes.

(3) Model A310–203, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a crack found on door frame (FR) 73A between stringers 24 and 25, and a determination that FR 56A and FR 57A may also be susceptible to cracking, and that additional airplanes may be affected by the unsafe condition. The FAA is issuing this AD to address cracking on door frames, which 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, European Union Aviation Safety Agency (EASA) AD 2022–0078, dated May 4, 2022 (EASA AD 2022–0078).

(h) Exceptions to EASA AD 2022–0078

(1) Where EASA AD 2022–0078 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2022–0078 refers to September 25, 2014 (the effective date of EASA AD 2014–0202), this AD requires using September 8, 2016 (the effective date of AD 2016–16–06).

(3) The ''Remarks'' section of EASA AD 2022–0078 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0078 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 International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be

emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (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 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.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0078, dated May 4, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0078, 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 28, 2022.

Christina Underwood,

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

[FR Doc. 2022–27398 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1236; Project Identifier MCAI–2021–01376–T; Amendment 39–22275; AD 2022–25–19]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by a report of a thrust reverser actuation system (TRAS) deploy hose failure upon the commanded deployment of a thrust reverser. This AD requires removing each non-conforming TRAS deploy hose, and replacing it with a conforming TRAS deploy hose, as specified in a Transport Canada 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 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1236; 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 Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* website *tc.canada.ca/en/aviation.*
- 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–2022–1236.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on October 5, 2022 (87 FR 60349). The NPRM was prompted by AD CF–2021–46, dated December 8, 2021, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2021–46) (also referred to as the MCAI). The MCAI states a report of a TRAS deploy hose failure upon the commanded deployment of a thrust reverser. It was found that certain TRAS deploy hoses were made with incomplete installation of the wire overbraid, which created a weak point and subsequently led to failure of the deploy hose. The failure of a deploy hose could lead to loss of thrust reverser function and hydraulic systems. The loss of one or both thrust reversers during landing on a contaminated runway could lead to a runway excursion.

In the NPRM, the FAA proposed to require removing each non-conforming TRAS deploy hose, and replacing it with a conforming TRAS deploy hose, as specified in Transport Canada AD CF–2021–46. 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–2022–1236.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Air Line Pilots Association, International (ALPA) who 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 comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

Transport Canada AD CF–2021–46 specifies procedures for removing each non-conforming TRAS deploy hose, and replacing it with a conforming TRAS deploy hose. 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 8 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
3 work-hours × $85 per hour = $255	* $0	$255	$2,040

* The FAA has received no definitive data on which to base the cost estimates for the parts specified in this AD.

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:

2022–25–19 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–22275; Docket No. FAA–2022–1236; Project Identifier MCAI–2021–01376–T

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF–2021–46, dated December 8, 2021 (Transport Canada AD CF–2021–46).

(d) Subject

Air Transport Association (ATA) of America Code 14, Hardware; 78, Engine Exhaust.

(e) Unsafe Condition

This AD was prompted by a report of a thrust reverser actuation system (TRAS) deploy hose failure upon the commanded deployment of a thrust reverser. The FAA is issuing this AD to address failure of a deploy hose, which could lead to loss of thrust reverser function and hydraulic systems. Losing one or both thrust reversers during landing on a contaminated runway could lead to a runway excursion.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2021–46.

(h) Exception to Transport Canada AD CF–2021–46

(1) Where Transport Canada AD CF–2021–46 refers to hours air time, this AD requires using flight hours.

(2) Where Transport Canada AD CF–2021–46 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where any service information referenced in Transport Canada AD CF–2021–46 lists affected thrust reversers, this AD requires using the serial and part numbers listed in table 1 to paragraph (h)(3) of this AD.

Table 1 to Paragraph (h)(3) of This AD—Affected Thrust Reversers

BILLING CODE 4910–13–P

Serial Number	Part Number
296001	999-3002-577
297001	999-3002-575
298001	999-3002-577
299001	999-3002-575
300001	999-3002-577
301001	999-3002-575
302001	999-3002-577
303001	999-3002-575
304001	999-3002-577
305001	999-3002-575
306001	999-3002-577
307001	999-3002-575
308001	999-3002-577
309001	999-3002-575
310001	999-3002-577
311001	999-3002-575

BILLING CODE 4910–13–C

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada; or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

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

(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) Transport Canada AD CF–2021–46, dated December 8, 2021.

(ii) [Reserved]

(3) For Transport Canada AD CF–2021–46, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* website *tc.canada.ca/en/aviation.*

(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 December 2, 2022.

Christina Underwood,

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

[FR Doc. 2022–27391 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0993; Project Identifier MCAI–2022–00295–T; Amendment 39–22262; AD 2022–25–06]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain De Havilland Aircraft of Canada Limited Model DHC–8–402 airplanes. This AD was prompted by an investigation that found that the actual operating temperatures within the integrated flight cabinet (IFC) were significantly higher than anticipated during certification. This AD requires a modification to improve the IFC cooling capacity. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2022–0993; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855–310–1013, Direct: 647–277–5820; email *thd@dehavilland.com;* website *dehavilland.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2022–0993.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain De Havilland Aircraft of Canada Limited Model DHC–8–402 airplanes. The NPRM published in the **Federal Register** on August 12, 2022 (87 FR 49776). The NPRM was prompted by AD CF–2022–09, dated March 3, 2022, issued by Transport Canada, which is the aviation authority for Canada (referred to after this as the MCAI) (Transport Canada CF–2022–09). The MCAI states that as a result of higher-than-expected failure rates in service, the supplier's investigation found that actual operating temperatures within the IFC were significantly higher than anticipated during certification. Consequently, the reliability of the IFC module does not meet safety objectives. The MCAI further states this failure mode could lead to uncontrolled autopilot pitch trim servo runaway and/or failure of the stall warning and stick pusher, resulting in reduced controllability of the airplane.

In the NPRM, the FAA proposed to require a modification to improve the IFC cooling capacity. 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–2022–0993.

Discussion of Final Airworthiness Directive

Comments

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

The FAA received an additional comment from Horizon Air. The following presents the comment received on the NPRM and the FAA's response to each comment.

Request To Exclude Job Set-Up and Close-Out

Horizon Air requested that the final rule mandate only paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of De Havilland Service Bulletin 84–21–24, Revision B, dated Oct 13, 2021, because that corrects the unsafe condition. Horizon Air stated that paragraph 3.A. ''Job Set-up,'' and paragraph 3.C., ''Close Out'' of the Accomplishment Instructions of De Havilland Service Bulletin 84–21–24, Revision B, dated Oct 13, 2021, do not directly correct the unsafe condition. The commenter stated that incorporating the ''Job Set-up'' and ''Close Out'' procedures as a requirement of the AD restricts an operator's ability to perform other maintenance in conjunction with the incorporation of the service information.

The FAA agrees with the requested change for the reasons provided by the commenter. In addition, this change corresponds to Transport Canada AD CF–2022–09, dated March 3, 2022. The FAA has revised paragraph (g) of this AD 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 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

De Havilland Aircraft of Canada Limited has issued Service Bulletin 84–21–24, Revision B, dated October 13, 2021. This service information specifies procedures for a modification to improve the IFC cooling capacity. The tasks include reworking the forward and aft avionics rack side panels, removing the piccolo tube assemblies, doing a general visual inspection for contamination of the IFCs and avionics rack, cleaning any contamination found, installing and routing new cooling ducts, and installing two new extraction plenums in the avionics rack cooling system.

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 56 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
11 work-hours × $85 per hour = $935	$6,950	$7,885	$441,560

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:

2022–25–06 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22262; Docket No. FAA–2022–0993; Project Identifier MCAI–2022–00295–T

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited (Type Certificate previously held by Bombardier Inc.) Model DHC–8–402 airplanes, certificated in any category, serial numbers 4095 through 4633 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air Conditioning System.

(e) Unsafe Condition

This AD was prompted by an investigation that found that the actual operating temperatures within the integrated flight cabinet (IFC) were significantly higher than anticipated during the certification. Consequently, the reliability of the IFC module does not meet safety objectives. The FAA is issuing this AD to address the high operating temperatures within the IFC, which could lead to uncontrolled autopilot pitch trim servo runaway and failure of the stall warning and stick pusher, resulting in reduced controllability of the airplane.

(f) Compliance

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

(g) Required Actions

Within 8,000 flight hours or 48 months, whichever occurs first, from the effective date of this AD, do a modification to improve the IFC cooling capacity, in accordance with paragraph 3.B., "Procedure," of the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–21–24, Revision B, dated Oct 13, 2021.

(h) 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 De Havilland Aircraft

of Canada Limited Service Bulletin 84–21–24, Revision A, dated August 20, 2021.

(i) 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; fax 516–794–5531. 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; or De Havilland Aircraft of Canada Limited's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

(1) Refer to Transport Canada AD CF–2022–09, dated March 3, 2022, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–0993.

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

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

(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) De Havilland Aircraft of Canada Limited Service Bulletin 84–21–24, Revision B, dated Oct 13, 2021.

(ii) [Reserved]

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

(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 November 30, 2022.

Christina Underwood,

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

[FR Doc. 2022–27397 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0882; Project Identifier MCAI–2021–01370–T; Amendment 39–22261; AD 2022–25–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by a report that corrosion and wear were discovered on the slat tracks due to insufficient grease applied to the slat tracks during production. This AD requires repetitive cleaning and greasing of all slat tracks to prevent damage and corrosion; doing repetitive inspections of the slat tracks for any damage or corrosion, and the correct application of grease; and applicable corrective actions; as specified in a Transport Canada 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 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2022–0882; 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 Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* website *tc.canada.ca/en/aviation.*

• 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–2022–0882.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on July 21, 2022 (87 FR 43456). The NPRM was prompted by CF–2021–43, dated November 29, 2021, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2021–43) (referred to after this as the MCAI). The MCAI states that corrosion and wear were discovered on the slat tracks due to insufficient grease applied to the slat tracks during production. The MCAI adds that corrosion and wear on the slat tracks could lead to loss of one or more slat panels or loss of slat track guidance and consequently cause catastrophic structural damage to the wings or other parts of the airplane due to slat panels departing from the airplane.

In the NPRM, the FAA proposed to require repetitive cleaning and greasing of all slat tracks to prevent damage and corrosion; doing repetitive inspections of the slat tracks for any damage or corrosion, and the correct application of grease; and applicable corrective actions, as specified in Transport Canada AD CF–2021–43. 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–2022–0882.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Delta Air Lines (Delta). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Remove or Extend Timeframe for Reporting Requirement

Delta requested that the proposed AD be revised to not require reporting inspection results. Delta added that if reporting is required, the reporting timeframe should be extended to 90 days. Delta stated that Transport Canada AD CF–2021–43 was released in 2021 and Airbus Canada Limited Partnership has already received significant data from other operators. Delta added that continuing to require reporting does not provide additional safety. Delta further noted that the 30 day reporting compliance time in the proposed AD adds an unnecessary burden, and extending the compliance time to 90 days significantly reduces that burden.

The FAA disagrees with the commenter's requests. Airbus Canada Limited Partnership is analyzing the inspection results to assist in their ongoing investigation and help determine if further corrective actions are needed. Regarding the compliance time, the FAA notes that Transport Canada AD CF–2021–43 specifies to report within 30 days, which aligns with the FAA's standard compliance time for inspection reports. The FAA and Airbus Canada concur with Transport Canada's decision. However, once this AD is published, any person may request approval of an AMOC under the provisions of paragraph (i)(1) of this AD. The FAA has not revised this AD regarding this issue.

Request To Clarify Grease Levels for Reporting

Delta requested that if reporting is required, the FAA clarify what constitutes thick or thin levels of grease. Delta noted that Appendix 1 of Spirit Service Bulletin 500SHW–57–4201, Issue 001, dated November 17, 2021, specifies to report to specify whether the level of grease is thick or thin, but does not specify what measurements qualify as thick or thin.

The FAA agrees to clarify. The FAA has added paragraph (h)(6) of this AD to specify the criteria for a thick or thin application of grease.

Request To Clarify the Intent of Paragraph (h)(4) of the Proposed AD

Delta requested that the FAA clarify the intent of paragraph (h)(4) of the proposed AD. Delta added that it interprets the meaning to be that where Transport Canada AD CF–2021–43 states ''in accordance with the applicable SB and only Part B (or Part A) of the VSB'' it should be read as ''in accordance with only Part B (or Part A) of the VSB.'' Delta added that if its interpretation is incorrect, paragraph (h)(4) of the proposed AD should be rewritten to clearly emphasize the correct interpretation.

The FAA agrees to clarify. Delta's interpretation of paragraph (h)(4) of this AD is correct. This AD requires using only the applicable part of ''the VSB [vendor service bulletin]'' as defined in Transport Canada AD CF–2021–43, instead of both ''the VSB'' and ''the applicable SB'' as defined in Transport Canada AD CF–2021–43. The FAA has revised paragraph (h)(4) of this AD to clarify.

Request To Clarify the Meaning of ''Vendor Service Information''

Delta requested that paragraph (h)(3) of the proposed AD to clarify the meaning of ''vendor service information.'' Delta noted that it believes ''vendor service bulletin'' means Spirit Service Bulletin 500SHW–57–4201, Issue 001, dated November 17, 2021, but Transport Canada AD CF–2021–43 does not use the phrase ''vendor service information.''

The FAA agrees to clarify. The phrase ''vendor service bulletin'' is referring to Spirit Service Bulletin 500SHW–57–4201, Issue 001, dated November 17, 2021, which Transport Canada AD CF–2021–43 defines as ''the VSB.'' The FAA has revised paragraph (h)(3) of this AD to specify ''the VSB'' for consistency with the terminology in Transport Canada AD CF–2021–43.

Request To Exclude Job Set-Up and Job Close-Out Procedures

Delta asked for clarification whether the job set-up and job close-out procedures of Spirit Service Bulletin 500SHW–57–4201, Issue 001, dated November 17, 2021, are required for compliance with the proposed AD. Delta noted that Airbus Canada Limited Partnership Service Bulletin BD500–574001, Issue 001, dated November 22, 2021, contains a note specifying that the procedures section of the Accomplishment Instructions are required for compliance, while the job set-up and job close-out sections, with the exception of return-to-service tests, are recommended and can be deviated from, provided certain conditions are met. Delta added that Spirit Service Bulletin 500SHW–57–4201, Issue 001, dated November 17, 2021, does not contain a similar note and asked for confirmation that the note also applies to Spirit Service Bulletin 500SHW–57–4201, Issue 001, dated November 17, 2021.

The FAA agrees to clarify. The note applies only to Airbus Canada Limited Partnership Service Bulletin BD500–574001, Issue 001, dated November 22, 2021. However, the FAA has determined the ''Job set-up'' and ''Job close-out'' sections of Spirit Service Bulletin 500SHW–57–4201 are recommended steps that can be used at the operator's discretion. Therefore, the FAA has added paragraph (h)(7) of this AD to specify that only section 2. Procedure of the Accomplishment Instructions of ''the VSB'' is required by this AD.

Request To Allow a Transport Canada Global Alternative Method of Compliance (AMOC)

Delta requested that the proposed AD be revised to allow the use of Transport Canada AMOC AARDG–2022/A09 when complying with the proposed AD. Delta noted that operators reported difficulty completing the inspection and grease application without removing the slat track from the airplane. Delta added that Transport Canada concluded that the AMOC procedures provide an equivalent level of safety as those specified in the service information.

The FAA agrees with the intent of the commenter's request. The FAA does not have a process to directly adopt AMOCs issued by Transport Canada, and also cannot allow an AMOC until a final rule has been issued. However, the FAA has added paragraphs (h)(8) and (9) of this AD to allow the provisions specified in the Transport Canada AMOC.

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

Transport Canada AD CF–2021–43 specifies procedures for repetitive cleaning and greasing of all slat tracks, including the slat track rollers, the slat pinion gear bearings, and the slat pinion gears to prevent damage (*e.g.,* metal wear) and corrosion; doing repetitive general visual inspections of the slat tracks for any damage or corrosion, and the correct application of grease; and applicable corrective actions. Corrective actions include repairs, rework, measurements of the reworked area, and a magnetic particle inspection of the reworked area for any cracking. Transport Canada AD CF–2021–43 also specifies procedures for reporting the inspection findings. 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 61 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 15 work-hours × $85 per hour = Up to $1,275	$0	Up to $1,275	Up to $77,775.

* Table does not include estimated costs for reporting.

The FAA estimates that it will take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $5,185, or $85 per product.

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
8 work-hours × $85 per hour = $680	$0	$680

The FAA has received no definitive data on which to base the cost estimates for the repair specified in this AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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:

2022–25–05 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–22261; Docket No. FAA–2022–0882; Project Identifier MCAI–2021–01370–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF–2021–43, dated November 29, 2021 (Transport Canada AD CF–2021–43).

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report that corrosion and wear were discovered on the slat tracks due to insufficient grease applied to the slat tracks during production. The FAA is issuing this AD to address corrosion and wear on the slat tracks, which could lead to loss of one or more slat panels or loss of slat track guidance and consequently cause catastrophic structural damage to the wings or other parts of the airplane due to slat panels departing from 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, Transport Canada AD CF–2021–43.

(h) Exceptions to Transport Canada AD CF–2021–43

(1) Where Transport Canada AD CF–2021–43 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2021–43 refers to hours air time, this AD requires using flight hours.

(3) Where ‘‘the VSB [vendor service bulletin]’’ referenced in Transport Canada AD CF–2021–43 specifies to do a magnetic particle inspection or an eddy current inspection of the repaired area for any cracking, for this AD if any cracking is found, the cracking must be repaired before further flight using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada; or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(4) Where Transport Canada AD CF–2021–43 specifies to accomplish certain actions using both the ‘‘applicable SB’’ and ‘‘the VSB’’ as defined in Transport Canada AD CF–2021–43, this AD requires using only ‘‘the VSB.’’.

(5) Paragraph C. of Transport Canada AD CF–2021–43 specifies to report inspection results to Airbus Canada Limited Partnership within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(5)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(6) Where ‘‘the VSB’’ referenced in Transport Canada AD CF–2021–43 specifies to record the level of grease (thin or thick), for this AD a thin grease level is one that uniformly covers the slat tracks, slat track rollers, slat pinion gear bearings, and the slat pinion gears; and a thick grease level is one that extends beyond the slat tracks, slat track rollers, slat pinion gear bearings, and the slat pinion gears or that inhibits function of the slat tracks.

(7) Where Transport Canada AD CF–2021–43 specifies accomplishing certain actions using ‘‘the VSB,’’ for this AD replace the text ‘‘Part A of the VSB’’ with ‘‘section 2., Procedure, of Part A of the VSB.’’ and replace the text ‘‘Part B of the VSB’’ with ‘‘section 2., Procedure, of Part B of the VSB.’’

(8) Where step 2.7 of Part B of ‘‘the VSB’’ referenced in Transport Canada AD CF–2021–43 specifies to inspect certain areas of the slat tracks, this AD allows inspecting as specified in paragraphs (h)(8)(i) and (ii) of this AD.

(i) For slat tracks 1 through 3 on the left and right wings: Inspect the upper and lower surfaces of the slat tracks and visible portions of the side surfaces of the slat tracks only, excluding underneath the pinion gear on slat tracks 1 and 3 and underneath the forward and aft upper and lower main rollers on slat tracks 1 through 3.

(ii) For slat tracks 4 through 11 on the left and right wings: Inspect the lower surfaces of the slat tracks only, excluding underneath the pinion gear on slat tracks 4, 6, 7, 9, 10, and 11 and underneath the forward and aft lower main rollers on slat tracks 4 through 11.

(9) Where step 2.5 of Part A of ‘‘the VSB’’ referenced in Transport Canada AD CF–2021–43 specifies applying grease (04–400) in front of the main rollers and side flanges of the slat track, this AD allows applying grease as specified in paragraphs (h)(9)(i) and (ii) of this AD.

(i) For slat tracks 1 through 3 on the left and right wings: Apply grease (04–004) on the slat tracks in the side flanges of the slat tracks, the portions of the slat tracks in front of the forward upper and lower main rollers, and the upper and lower surfaces of the slat tracks between the forward and aft upper and lower main rollers, excluding underneath the aft upper and lower main rollers.

(ii) For slat tracks 4 through 11 on the left and right wings: Apply grease (04–004) on the slat tracks in the side flanges of the slat tracks, the portions of the slat tracks in front of the forward upper and lower main rollers, and the lower surfaces of the slat tracks between the forward and aft lower main rollers, excluding underneath the pinion gear on slat tracks 4, 6, 7, 9, 10, and 11 and underneath the aft lower main roller on slat tracks 4 through 11.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada; or Airbus Canada Limited Partnership's Transport Canada DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

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

(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) Transport Canada AD CF–2021–43, dated November 29, 2021,

(ii) [Reserved]

(3) For Transport Canada AD CF–2021–43, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* website *tc.canada.ca/en/aviation.*

(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 28, 2022.

Christina Underwood,

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

[FR Doc. 2022–27390 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0395; Project Identifier MCAI–2021–01048–T; Amendment 39–22272; AD 2022–25–16]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–18–05, which applied to certain ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes; and AD 2020–09–16, which applied to all ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. AD 2018–18–05 and AD 2020–09–16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD is prompted by a determination that additional new or more restrictive airworthiness limitations are necessary. This AD retains the requirements of AD 2020–09–16. This AD also requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive maintenance requirements and airworthiness limitations, 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 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publications listed in this AD as of January 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of June 22, 2020 (85 FR 29596, May 18, 2020).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0395; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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* by searching for and locating Docket No. FAA–2022–0395.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–18–05, Amendment 39–19384 (83 FR 44463, August 31, 2018) (AD 2018–18–05), which applied to certain ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes; and AD 2020–09–16, Amendment 39–19912 (85 FR 29596, May 18, 2020) (AD 2020–09–16), which applied to all ATR–GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. AD 2018–18–05 and AD 2020–09–16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. AD 2020–09–16 also specified that accomplishing the maintenance or inspection program revision required by paragraph (g) of that AD terminates the requirements of AD 2018–18–05. The FAA issued AD 2018–18–05 and AD 2020–09–16 to prevent reduced structural integrity of the airplane.

The NPRM published in the **Federal Register** on April 6, 2022 (87 FR 19818). The NPRM was prompted by AD 2021–0211, dated September 17, 2021, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2021–0211) to correct an unsafe condition.

In the NPRM, the FAA proposed to retain the requirements of AD 2020–09–16. The NPRM also proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2021–0211.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2018–18–05 and AD 2020–09–16. The SNPRM published in the **Federal Register** on September 23, 2022 (87 FR 58038) (the SNPRM). The SNPRM was prompted by a determination that additional new or more restrictive airworthiness limitations are necessary; these limitations are specified in EASA AD 2022–0062, dated April 8, 2022 (EASA AD 2022–0062) (also referred to as the MCAI), which superseded EASA AD 2021–0211. In the SNPRM, the FAA proposed to retain the requirements of AD 2020–09–16. The SNPRM also proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive maintenance requirements and airworthiness limitations, as specified in EASA AD 2022–0062. The FAA is issuing this AD to prevent reduced structural integrity of the airplane.

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

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Related Service Information Under 1 CFR Part 51

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

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

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

Costs of Compliance

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

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

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

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

■ b. Adding the following new airworthiness directive:

2022–25–16 ATR–GIE Avions de Transport Régional: Amendment 39–22272; Docket No. FAA–2022–0395; Project Identifier MCAI–2021–01048–T

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

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

(c) Applicability

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

(d) Subject

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

(e) Unsafe Condition

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

(f) Compliance

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

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

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

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

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

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

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

(3) Paragraph (4) of EASA AD 2019–0256 specifies revising "the approved AMP" within 12 months after its effective date, but

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

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

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

(6) This AD does not adopt the ''Remarks'' section of EASA AD 2019–0256.

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

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

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

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

(k) Exceptions to EASA AD 2022–0062

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

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

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

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

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2022–0062.

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

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

(m) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(n) Additional Information

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

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 23, 2023.

(i) European Union Aviation Safety Agency (EASA) AD 2022–0062, dated April 8, 2022 (EASA AD 2022–0062).

(ii) [Reserved]

(4) The following service information was approved for IBR on June 22, 2020 (85 FR 29596, May 18, 2020).

(i) EASA AD 2019–0256, dated October 17, 2019.

(ii) [Reserved]

(5) For EASA ADs 2022–0062 and 2019–0256, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find these EASA ADs on the EASA website at *ad.easa.europa.eu.*

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

(7) You may view this 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 December 1, 2022.

Christina Underwood,

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

[FR Doc. 2022–27405 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0979; Project Identifier MCAI–2022–00171–T; Amendment 39–22263; AD 2022–25–07]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–25–16, which applied to certain Embraer S.A. Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes. AD 2019–25–16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD was prompted by the determination that new or more restrictive airworthiness limitations are necessary. This AD continues to require the actions in AD 2019–25–16 and requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations and certain structural modifications, as specified in an Agência Nacional de Aviação Civil (ANAC) 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 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2023.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of February 10, 2020 (85 FR 453, January 6, 2020).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0979; 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 ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br*; website *anac.gov.br/en/*. You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp*.
- For Embraer service information identified in this final rule, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brasil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br*; internet *flyembraer.com*.
- 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–2022–0979.

FOR FURTHER INFORMATION CONTACT:
Allison Buss, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 303–342–1090; email *allison.j.buss@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–25–16, Amendment 39–21015 (85 FR 453, January 6, 2020) (AD 2019–25–16). AD 2019–25–16 applied to certain Embraer S.A. Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, –200 STD, and 200 LL airplanes. AD 2019–25–16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations; and added airplanes to the applicability. The FAA issued AD 2019–25–16 to address fatigue cracking of various principal structural elements (PSEs); such cracking could result in reduced structural integrity of the airplane and to prevent safety significant latent failures; such failures, in combination with one or more other specified failures or events, could result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems. Furthermore, the FAA issued AD 2019–25–16 to address potential ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions; such failures, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

The NPRM published in the **Federal Register** on July 28, 2022 (87 FR 45284). The NPRM was prompted by AD 2022–02–01, effective February 9, 2022, issued by ANAC (referred to after this as the MCAI) (ANAC AD 2022–02–01). The MCAI states that it was prompted by a determination that new or more restrictive airworthiness limitations are necessary.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–0979.

In the NPRM, the FAA proposed to continue to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations and certain structural modifications, as specified in ANAC AD 2022–02–01. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

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

Request To Update the Required Service Information

Horizon Air requested that the Embraer 170/175 Maintenance Review Board Report, MRB 1621, Revision 17, dated July 01, 2021, referenced in ANAC AD 2022–02–01, be updated to Embraer 170/175 Maintenance Review Board Report, MRB 1621, Revision 18, dated July 4, 2022.

The FAA confirms that it intends to allow the use of applicable later MRB revisions to comply with the requirements of this AD. This AD refers to ANAC AD 2022–02–01 as the appropriate source of service information for accomplishing the required actions. Paragraph (f) of ANAC AD 2022–02–01 accepts the use of later approved revisions of the referenced MRB document for compliance. Therefore, applicable later approved MRB revisions are acceptable for compliance with this AD. No change to the AD is required.

Conclusion

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

Related Service Information Under 1 CFR Part 51

ANAC AD 2022–02–01 describes new or more restrictive airworthiness limitations for airplane structures and the incorporation of certain structural modifications (*i.e.,* reinforcement of left-hand (LH) and right-hand (RH) wing spar II lower; and reinforcement of the wing lower skin chordwise splices of LH and RH wing) before the defined structural modifications points (SMP).

This AD also requires Appendix A—Airworthiness Limitations of EMBRAER

170/175 Maintenance Review Board Report (MRBR), MRB–1621, Revision 14, dated September 27, 2018; and Embraer Temporary Revision (TR) 14–1, dated November 13, 2018, to Part 4-Life-Limited Items, of Appendix A of EMBRAER 170/175 Maintenance Review Board Report (MRBR), MRB–1621, Revision 14, dated September 27, 2018; which the Director of the Federal Register approved for incorporation by reference as of February 10, 2020 (85 FR 453).

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 662 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2019–25–16 to be $7,650 (90 work-hours × $85 per work-hour).

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

The FAA estimates the total cost per operator for the new revision to the existing maintenance or inspection program to be $7,650 (90 work-hours x $85 per work-hour).

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
New proposed actions	196 work-hours × $85 per hour = $16,660	$98,860	$115,520	$76,474,240

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

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

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:

■ a. Removing Airworthiness Directive 2019–25–16, Amendment 39–21015 (85 FR 453, January 6, 2020); and

■ b. Adding the following new airworthiness directive:

2022–25–07 Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.): Amendment 39–22263; Docket No. FAA–2022–0979; Project Identifier MCAI–2022–00171–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

This AD replaces AD 2019–25–16, Amendment 39–21015 (85 FR 453, January 6, 2020) (AD 2019–25–16).

(c) Applicability

This AD applies to all Embraer S.A. Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks; 27, Flight controls; 28, Fuel; 52, Doors; 53, Fuselage; 54, Nacelles/pylons; 55, Stabilizers; 57, Wings; 71, Powerplant; and 78, Exhaust.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking of various principal structural elements (PSEs); such cracking could result in reduced structural integrity of the airplane. The FAA is also issuing this AD to address safety significant latent failures; such failures, in combination with one or more other specified failures or events, could result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems. Furthermore, the FAA is issuing this AD to address potential ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions; such failures, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

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

This paragraph restates the requirements of paragraph (i) of AD 2019–25–16, with no changes. For Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, –200 STD, and –200LL airplanes; manufacturer serial numbers 17000002, 17000004 through 17000013 inclusive, and 17000015 through 17000761 inclusive: Within 90 days after February 10, 2020 (the effective date of AD 2019–25–16), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Part 1-Certification Maintenance Requirements, Part 2-Airworthiness Limitation Inspections (ALI)-Structures, Part 3-Fuel System Limitation Items, and Part 4-Life Limited Items; and EMBRAER Temporary Revision (TR) 14–1, dated November 13, 2018, to part 4-Life Limited Items; of Appendix A of the EMBRAER 170/175 MRBR, MRB–1621, Revision 14, dated September 27, 2018 (EMBRAER 170/175 MRB–1621, Revision 14). The initial compliance time for doing the tasks is at the later of the times specified in paragraphs (g)(1) and (2) of this AD.

(1) Within the applicable times specified in EMBRAER 170/175 MRB–1621, Revision 14. For the purposes of this AD, the initial compliance times (identified as ''Threshold'' or ''T'' in EMBRAER 170/175 MRB–1621, Revision 14) are expressed in ''total flight cycles'' or ''total flight hours,'' as applicable.

(2) Within 90 days or 600 flight cycles after February 10, 2020 (the effective date of AD 2019–25–16), whichever occurs later.

(h) Retained Restrictions on Alternative Actions, Intervals, and CDCCLs, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2019–25–16, with no changes. Except as required by paragraph (i) of this AD: After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (l)(1) of this AD.

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

Except as specified in paragraph (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2022–02–01, effective February 9, 2022 (ANAC AD 2022–02–01). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements for Part 2—Airworthiness Limitation Inspections (ALI)-Structures specified in paragraph (g) of this AD only.

(j) Exceptions to ANAC AD 2022–02–01

(1) Where ANAC AD 2022–02–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Alternative method of compliance (AMOC)'' section of ANAC AD 2022–02–01 does not apply to this AD.

(3) Where paragraph (b)(1) of ANAC AD 2022–02–01 specifies incorporating all airworthiness limitations in Part 2 of the service information specified in paragraph (b)(1) of ANAC AD 2022–02–01, for this AD, do not incorporate the threshold and interval for maintenance review board report (MRBR) task number 57–30–002–0002, ''Enhanced Wingtip to Wing Spar Attachments—Internal.''

Note 1 to paragraph (j)(3): AD 2022–11–51, Amendment 39–22074 (87 FR 33623, June 3, 2022) (AD 2022–11–51), requires, among other actions, incorporating alternate thresholds and intervals for MRBR task number 57–30–002–0002. The airplanes affected by MRBR task number 57–30–002–0002 are identified in paragraph (c) of AD 2022–11–51.

(k) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in paragraph (f) of ANAC AD 2022–02–01.

(l) Additional FAA AD Provisions

The following provisions also apply to this AD:

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

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2019–25–16 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(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 ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (l)(2) of this AD, if any service information referenced in ANAC AD 2022–02–01 contains steps in the Accomplishment Instructions or figures that are labeled as RC, the instructions in RC steps, including subparagraphs under an RC step and any figures identified in an RC step, must be done to comply with this AD; any steps including substeps under those steps, that are not identified as RC are recommended. The instructions in steps, including substeps under those steps, 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 instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep.

(m) Additional Information

For more information about this AD, contact Allison Buss, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 303–342–1090; email *allison.j.buss@faa.gov*.

(n) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2022–02–01, effective February 9, 2022.

(ii) [Reserved]

(3) The following service information was approved for IBR on February 10, 2020 (85 FR 453, January 6, 2020).

(i) Appendix A—Airworthiness Limitations of EMBRAER 170/175 Maintenance Review Board Report (MRBR), MRB–1621, Revision 14, dated September 27, 2018.

(ii) Embraer Temporary Revision (TR) 14–1, dated November 13, 2018, to Part 4-Life-Limited Items, of Appendix A of EMBRAER 170/175 Maintenance Review Board Report (MRBR), MRB–1621, Revision 14, dated September 27, 2018.

(4) For ANAC AD 2022–02–01, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br*; website *anac.gov.br/en/*. You may find this ANAC AD on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp*.

(5) For Embraer material, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—Brasil; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546;

email *distrib@embraer.com.br*; internet flyembraer.com.

(6) 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.

(7) 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 29, 2022.

Christina Underwood,

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

[FR Doc. 2022–27404 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0833; Project Identifier MCAI–2021–00245–T; Amendment 39–22258; AD 2022–25–02]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–18–04, which applied to Airbus SAS Model A350–941 and –1041 airplanes. AD 2020–18–04 required a one-time health check of the slat power control unit (PCU) torque sensing unit (TSU) for discrepancies, and corrective actions if necessary; a detailed inspection of the left-hand (LH) and right-hand (RH) slat transmission systems for discrepancies, and corrective actions if necessary; and LH and RH track 12 slat gear rotary actuator (SGRA) water drainage and vent plug cleaning (which includes an inspection for moisture). This AD was prompted by a determination that requiring modification of the PCU by replacing each affected slat PCU with a serviceable PCU (one having a different part number) is necessary. This AD continues to require the actions required by AD 2020–18–04, and also requires modification (replacement of each affected slat PCU with a slat PCU having a different part number), and revising the limitations on the installation of affected parts; 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 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2021–0833; 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 EASA 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–2021–0833.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *dat.v.le@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–18–04, Amendment 39–21225 (85 FR 54896, September 3, 2020) (AD 2020–18–04). AD 2020–18–04 applied to all Airbus SAS Model A350–941 and –1041 airplanes. AD 2020–18–04 required a one-time health check of the slat PCU TSU for discrepancies, and corrective actions if necessary; a detailed inspection of the LH and RH slat transmission systems for discrepancies, and corrective actions if necessary; and LH and RH track 12 SGRA water drainage and vent plug cleaning (which includes an inspection for moisture). The FAA issued AD 2020–18–04 to address a slat system jam during landing phase which could lead to a double shaft disconnection or rupture, potentially causing one or more slat surfaces to be no longer connected to either the slat wing tip brake or the slat PCU, possibly resulting in reduced control of the airplane.

The NPRM published in the **Federal Register** on September 30, 2021 (86 FR 54136). The NPRM was prompted by AD 2021–0053R1, dated April 19, 2021, issued by European Union Aviation Safety Agency (referred to after this as the MCAI). The MCAI states that since EASA AD 2020–0163R1, dated August 7, 2020 (which corresponds to FAA AD 2020–18–04), was issued, EASA received information that prompted it to add a requirement for repetitive TSU health checks, introduce a definition of serviceable part to clarify actions that have to be accomplished on affected parts, and remove a requirement for a water drainage and vent plug cleaning of the LH and RH track 12 SGRA.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2021–0833.

In the NPRM, the FAA proposed to remove a requirement for water drainage and vent plug cleaning of the SGRA, require repetitive health checks of the slat PCU TSU, a detailed visual inspection of the slat transmission systems, and corrective actions if necessary, as specified in EASA AD 2020–0163R1.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2020–18–04. The SNPRM published in the **Federal Register** on June 1, 2022 (87 FR 33076) (the SNPRM). The SNPRM was prompted by EASA issuance of AD 2021–0275, dated December 10, 2021, (EASA AD 2021–0275), which determined that requiring modification of the PCU by replacing each affected slat PCU with a serviceable PCU (one having a different part number) is necessary, and clarified the limitations related to when an affected slat PCU may be installed on an airplane. In the SNPRM, the FAA proposed to require modification (replacement of each affected slat PCU with a slat PCU having a different part number), requiring an inspection report, and revising the limitations on the installation of affected parts. The FAA is issuing this AD to address a slat system jam during landing, which could lead to a double shaft disconnection/ rupture, potentially causing one or more

slat surfaces to be no longer connected to either the slat wing tip brake or the slat PCU, possibly resulting in reduced control of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Delta Air Lines (Delta). The following presents the comments received on the SNPRM and the FAA's response to each comment.

Request for Removing the Initial Health Check Requirement

Delta requested that the terminating action (modification of the PCU) specified in paragraph (6) of EASA AD 2021–0275 for the repetitive health checks in paragraph (4) of EASA AD 2021–0275 be extended to the initial health check specified in paragraph (2) of EASA AD 2021–0275 too. Delta noted that it seems that the health checks are intended only for those slats that have not been modified. Delta stated that for a modified PCU, a detailed inspection (as specified in paragraph (1) of EASA AD 2021–0275) is required and that an initial health check would not reveal further information or instruction. Delta added that the detailed inspection and initial health check have the same compliance time. Delta recommended revising paragraph (h) of the proposed AD (in the SNPRM) to permit the terminating action to be used for the initial health check too.

The FAA agrees to the request for the reasons that Delta provided. The FAA has revised paragraph (h) of this AD to provide terminating action for the initial health check.

Request for Removal of the Reporting Requirement

Delta requested removing the requirement to send inspection reports to Airbus. Delta pointed out that Airbus provided a modification that terminates inspection requirements. Delta noted also that if there are findings that require a request for repair instruction, the operator would need to provide details of the discrepancies before receiving repair instructions. Delta recommended revising paragraph (h) of proposed AD (in the SNPRM) to remove the reporting requirement and state that reporting is not required.

The FAA agrees with the request for the reasons stated. The FAA has revised paragraph (h) of this AD and the Cost of Compliance and Related Service Information Under 1 CFR part 51 sections of this AD accordingly; and added paragraph (i) to this AD to state that inspection reports are not required.

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 SNPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0275 specifies procedures for repetitive health checks of the slat PCU TSU for discrepancies, and corrective actions (replacement) if necessary; a detailed visual inspection of the LH and RH slat transmission systems for discrepancies, and corrective actions (repair) if necessary; and a modification of the PCU (replacement of each slat PCU having part number (P/N) 4785A0000–04 or 4785A0000–05 with a slat PCU having P/N 4785A0000–06), which terminates the health checks. EASA AD 2021–0275 also specifies limitations for installing affected slat PCUs. 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 preamble to AD 2020–18–04 explains that the FAA considers those requirements ''interim action'' and that the manufacturer is developing a final action to address the unsafe condition. That AD explains that the FAA might consider further rulemaking if a final action is identified. The same explanation was in the preamble of the NPRM. Since the FAA issued AD 2020–18–04 and the NPRM, the manufacturer has developed a modification to the PCU, and the FAA has determined that further rulemaking is indeed necessary; this AD follows from that determination.

Costs of Compliance

The FAA estimates that this AD affects 15 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 40 work-hours × $85 per hour = Up to $3,400	$275,300	Up to $278,700	Up to $4,180,500.

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this AD.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

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:

■ a. Removing Airworthiness Directive 2020–18–04, Amendment 39–21225 (85 FR 54896, September 3, 2020); and

■ b. Adding the following new airworthiness directive:

2022–25–02 Airbus SAS: Amendment 39–22258; Docket No. FAA–2021–0833; Project Identifier MCAI–2021–00245–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

This AD replaces AD 2020–18–04, Amendment 39–21225 (85 FR 54896, September 3, 2020) (AD 2020–18–04).

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by a report of a slat system jam during landing, the determination that health checks must be repetitive to monitor torque sensor unit (TSU) wear, and the development of a modification that terminates the health checks. The FAA is issuing this AD to address a slat system jam during landing, which could lead to a double shaft disconnection/rupture, potentially causing one or more slat surfaces to be no longer connected to either the slat wing tip brake or the slat power control unit (PCU), possibly resulting in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0275, dated December 10, 2021 (EASA AD 2021–0275).

(h) Exceptions to EASA AD 2021–0275

(1) Where EASA AD 2021–0275 refers to March 11, 2021 (the effective date of EASA AD 2021–0053, dated February 25, 2021), this AD requires using the effective date of this AD.

(2) Where paragraph (2) of EASA AD 2021–0275 specifies compliance times for accomplishment of certain actions, replace the text ''but not exceeding the compliance time for the repeat health check as determined in accordance with the instructions of AOT [Alert Operators Transmission] A27P015–20, or AOT A27P016–20,'' with ''but within the applicable compliance time specified in paragraph 4.2.3.1 of AOT A27P015–20; or 4.2.2.2.2 or 4.2.2.3.2 of AOT A27P016–20; as applicable.''

(3) Where paragraph (4) of EASA AD 2021–0275 specifies ''Appendix 5 of the AOT,'' use ''the Appendix labeled TSU Condition Check Flowchart of the AOT.''

(4) Where note 2 of EASA AD 2021–0275 states that the certificate of release accompanying a replacement part ''will clarify,'' use ''may be used to clarify.''

(5) The ''Remarks'' section of EASA AD 2021–0275 does not apply to this AD.

(6) Where EASA AD 2021–0275 refers to its effective date, this AD requires using the effective date of this AD.

(7) Where paragraph (7) of EASA AD 2021–0275 states that the modification specified in paragraph (6) of EASA AD 2021–0275 is terminating action for paragraph (4) of EASA AD 2021–0275, this AD considers accomplishing the modification specified in paragraph (6) of EASA AD 2021–0275 to also be terminating action for the initial health check specified in paragraph (2) of EASA AD 2021–0275.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0275 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, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any service information referenced in EASA AD 2021–0275 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, 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 instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(k) Additional Information

For more information about this AD, contact Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *dat.v.le@faa.gov*.

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 23, 2023.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0275, dated December 10, 2021.

(ii) [Reserved]

(4) For EASA AD 2021–0275, 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*.

(5) 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.

(6) 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 28, 2022.

Christina Underwood,

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

[FR Doc. 2022–27399 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1167; Project Identifier MCAI–2022–00461–T; Amendment 39–22278; AD 2022–25–22]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by reports indicating that protective caps were found on engine fire extinguishing pipes in the engine core zone (Zone 2) after airplane delivery. This AD requires a one-time inspection of the engine fire extinguishing pipes for the presence of protective caps and removal of any protective caps found, 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 23, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1167; 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–2022–1167.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *Dat.V.Le@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 A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on September 20, 2022 (87 FR 57427). The NPRM was prompted by AD 2022–0065, dated April 7, 2022, issued by EASA (EASA AD 2022–0065), which is the Technical Agent for the Member States of the European Union (referred to after this as the MCAI). The MCAI states the possibility that protective caps are present on engine fire extinguishing pipes. This condition, if not addressed, could prevent the extinguishment of an engine fire.

In the NPRM, the FAA proposed to require a one-time inspection of the engine fire extinguishing pipes for the presence of protective caps and removal of any protective caps found, as specified in EASA AD 2022–0065. The FAA is issuing this AD to address the possibility that protective caps are present on engine fire extinguishing pipes. This condition, if not addressed, could prevent the extinguishment of an engine fire.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2022–1167.

Discussion of Final Airworthiness Directive

Comments

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

The FAA received an additional comment from Delta Air Lines (DAL). The following presents the comment received on the NPRM and the FAA's response.

Request To Remove Paragraph (h)(3) or Allow Later Approved Revisions of Service Information

DAL requested that paragraph (h)(3) of the proposed AD be removed or that the FAA allow use of any later approved revisions of Rolls-Royce Alert Non-Modification Service Bulletin TRENT XWB 26–AK834, dated March 9, 2022; or Rolls-Royce Alert Non-Modification Service Bulletin TRENT XWB 26–AK835, dated March 10, 2022. DAL stated that a revision to either of these documents could change the applicability of the EASA AD and that the MCAI allows for later approved revisions of the service information.

The FAA does not agree with the requested change. Although later approved documents are allowed for certain requirements in EASA AD 2022–0065, the FAA requires AD applicability to be fixed, and therefore requires specific revision levels to identify affected engines, as stated in paragraph (h)(3) of this AD. The FAA has made no changes to 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 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 2022–0065 specifies procedures for a one-time special detailed (borescope) inspection of the engine fire extinguishing pipes in Zone 2 and removal of any protective caps found. If any protective cap is found, the lower gas generator fairing is removed and reinstalled, which includes the application of OMat 872 (a cold cure silicone compound).

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

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

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
3 work-hours × $85 per hour = $255	$0	* $255

* Up to an additional 48 hours to cure the OMat 872 (cold cure silicone compound) may be required.

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:

2022–25–22 Airbus SAS: Amendment 39–22278; Docket No. FAA–2022–1167; Project Identifier MCAI–2022–00461–T

(a) Effective Date

This airworthiness directive (AD) is effective January 23, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2022–0065, dated April 7, 2022 (EASA AD 2022–0065).

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Unsafe Condition

This AD was prompted by reports indicating that protective caps were found on engine fire extinguishing pipes in the engine core zone (Zone 2) after airplane delivery. The FAA is issuing this AD to address the possibility that protective caps are present on engine fire extinguishing pipes. This condition, if not addressed, could prevent the extinguishment of an engine fire.

(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 2022–0065.

(h) Exceptions to EASA AD 2022–0065

(1) Where EASA AD 2022–0065 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2022–0065 does not apply to this AD.

(3) Where EASA AD 2022–0065 defines an affected engine, replace the text ''as listed in Appendix 1 of the Rolls-Royce NMSB, as applicable'' with ''as listed in Appendix 1 of

Rolls-Royce Alert Non-Modification Service Bulletin TRENT XWB 26–AK834, dated March 9, 2022; or Rolls-Royce Alert Non-Modification Service Bulletin TRENT XWB 26–AK835, dated March 10, 2022; as applicable.''

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0065 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, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any service information referenced in EASA AD 2022–0065 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, 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 instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(k) Additional Information

For more information about this AD, contact Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *Dat.V.Le@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0065, dated April 7, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0065, 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 December 5, 2022.

Christina Underwood,

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

[FR Doc. 2022–27402 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1576; Project Identifier MCAI–2022–01183–T; Amendment 39–22277; AD 2022–25–21]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–1041 airplanes. This AD was prompted by a report of a loud noise and vibration in the belly fairing (BF) access panel above the wings. This AD requires a one-time detailed inspection of the BF access panels and, depending on findings, accomplishment of applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective January 3, 2023.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 3, 2023.

The FAA must receive comments on this AD by February 2, 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–2022–1576; 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 street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA 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.*
- For Airbus service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com; websiteairbus.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–2022–1576.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aerospace Engineer, Large Aircraft

Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *Dat.V.Le@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1576; Project Identifier MCAI–2022–01183–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *Dat.V.Le@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0183, dated August 30, 2022 (EASA AD 2022–0183) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–1041 airplanes. The MCAI states that a loud noise and vibration in the BF area above the wings was reported. The subsequent inspection revealed missing fasteners on the upper fastener line at the sewing angle attachment of the BF access panel 196ET. Further investigation determined that a shorter fastener and inappropriate self-locking nuts may have been used to install affected BF access panels on the final assembly line resulting in not enough threads of the collar engaged to ensure the locking capability. This condition, if not detected and corrected, could lead to in-flight detachment of an affected BF access panel, possibly resulting in damage to, and reduced control of, the airplane. Airbus SAS has developed a new production modification (116929) to introduce different self-locking nuts for the affected BF access panels, increasing the design robustness. EASA AD 2022–0183 requires a one-time detailed inspection of the affected BF access panels and, depending on findings, accomplishment of applicable corrective actions.

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–2022–1576.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0183 requires a one-time detailed inspection of the affected BF access panels for loose or missing fasteners, and a detailed inspection of the bolts attached to the sewing angle of the BF access panel to confirm that the chamfer length of the bolt is fully extended through the nut. Depending on the inspection results, EASA AD 2022–0183 requires accomplishment of applicable corrective actions including installing new or missing fasteners, applying torque, replacing bolts, and repair.

The FAA reviewed Airbus Service Bulletin A350–53–P073, dated June 9, 2022, which specifies serial numbers of affected airplanes.

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

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2022–0183 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2022–0183 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2022–0183 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0183 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 2022–0183. Service information required by EASA AD 2022–0183 for compliance will be available at *regulations.gov* under Docket No. FAA–2022–1576 after this AD is published.

FAA's Justification and Determination of the Effective Date

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

effective in less than thirty days, upon a finding of good cause.

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

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product
6 work-hours × $85 per hour = $595	$0	$595

The FAA estimates the following costs to do any necessary on-condition installations, replacements, or torqueing 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
1 work-hour × $85 per hour = $85	$3	$88 (per fastener or bolt).

The FAA has received no definitive data on which to base the cost estimates the on-condition repairs specified in this AD.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

(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:

2022–25–21 Airbus SAS: Amendment 39–22277; Docket No. FAA–2022–1576; Project Identifier MCAI–2022–01183–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 3, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–1041 airplanes, certificated in any category, having serial numbers identified in Airbus Service Bulletin A350–53–P073, dated June 9, 2022.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a loud noise and vibration in the belly fairing (BF) access panel above the wings. The FAA is issuing this AD to address missing fasteners on the BF access panels due to the use of shorter fasteners and inappropriate self-locking nuts resulting in not enough threads of the collar engaged to ensure the locking capability. The unsafe condition, if not addressed, could result in an in-flight detachment of an affected BF access panel, possibly resulting in damage to, and reduced control of, the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0183, dated August 30, 2022 (EASA AD 2022–0183).

(h) Exceptions to EASA AD 2022–0183

(1) Where EASA AD 2022–0183 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the service information referenced in EASA AD 2022–0183 specifies to do certain actions "in accordance with the IPD," for this AD replace the text "in accordance with" with "refer to."

(3) Where paragraph (2) of EASA AD 2022–0183 refers to a "defect," for purposes of this AD, a defect includes a loose or missing fastener, and a bolt whose length does not fully extend through the nut.

(4) The "Remarks" section of EASA AD 2022–0183 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0183 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 of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (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 Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516–228–7317; email *Dat.V.Le@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A350–53–P073, dated June 9, 2022.

(ii) European Union Aviation Safety Agency (EASA) AD 2022–0183, dated August 30, 2022.

(3) For EASA AD 2022–0183, 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) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* website airbus.com.

(5) 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.

(6) 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 December 5, 2022.

Christina Underwood,

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

[FR Doc. 2022–27403 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 221209–0267]

RIN 0694–AJ04

Additions and Revisions to the Entity List and Conforming Removal From the Unverified List

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

ACTION: Final rule.

SUMMARY: The Department of Commerce is amending the Export Administration Regulations (EAR) by adding thirty-six entities to the Entity List. These entities have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States and will be listed on the Entity List under the destinations of the People's Republic of China (China) and Japan. This rule also revises three entries on the Entity List under the destination of China. Lastly, as a conforming change to the addition of one entity to the Entity List under the destination of China, this rule removes this entity from the Unverified List (UVL). The entity is being added to the Entity List for reasons not related to the prevention of an end-use check and is removed from the UVL for consistency with the existing policy of not listing an entity on more than one of these lists at the same time.

DATES: This rule is effective December 16, 2022.

FOR FURTHER INFORMATION CONTACT: For questions about the Entity List, contact: Chair, End-User Review Committee, Office of the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Email: *ERC@bis.doc.gov;* and for questions about the UVL, contact Linda Minsker, Director, Office of Enforcement Analysis, Phone: (202) 482–4255, Email: *UVLRequest@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (supplement no. 4 to part 744 of the EAR (15 CFR parts 730–774)) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States, pursuant to § 744.11(b). The EAR

impose additional license requirements on, and limit the availability of, most license exceptions for exports, reexports, and transfers (in-country) when a listed entity is a party to the transaction. The license review policy for each listed entity is identified in the ''License Review Policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document that added the entity to the Entity List. The Bureau of Industry and Security (BIS) places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and makes all decisions to remove or modify an entry by unanimous vote.

Entity List Decisions

Additions to the Entity List

The ERC determined to add Anhui Cambricon Information Technology Co., Ltd.; Cambricon (Hong Kong) Co., Ltd.; Cambricon (Kunshan) Information Technology Co., Ltd.; Cambricon Jixingge (Nanjing) Technology Co., Ltd.; Cambricon (Nanjing) Information Technology Co., Ltd.; Cambricon Technologies Corporation Limited; Cambricon (Xi'an) Integrated Circuit Co., Ltd.; CETC Cloud (Beijing) Technology Co., Ltd.; CETC LES Information System Group Co., Ltd.; China Electronics Technology Group Corporation No. 28 Institute; Chinese Academy of Sciences Institute of Computing Technology; Guangdong Qinzhi Technology Research Institute Co., Ltd.; Key Laboratory of Information Systems Engineering; Nanjing Aixi Information Technology Co., Ltd.; Nanjing LES Cybersecurity and Information Technology Research Institute Co., Ltd.; Nanjing LES Electronic Equipment Co., Ltd.; Nanjing LES Information Technology Co., Ltd.; Shanghai Cambricon Information Technology Co., Ltd.; Suzhou Cambricon Information Technology Co., Ltd.; System Equipment Co., Ltd. of the 28th Research Institute (Liyang); and Xiong'an Cambricon Technology Co., Ltd. under the destination of China to the Entity List for acquiring and attempting to acquire U.S.-origin items in support of China's military modernization. These entities are major artificial intelligence (AI) chip research and development, manufacturing and sales entities. These entities are, or have close ties to, government organizations that support the Chinese military and the defense industry. This activity is contrary to the national security and foreign policy interests of the United States under § 744.11(b) of the EAR. These entities are added with a license requirement for all items subject to the EAR with a footnote 4 designation with a reference to the Entity List foreign ''direct product'' (FDP) rule in the license requirements column of the Entity List (see §§ 734.9(e)(2) and 744.11 of the EAR). These entities are added with a license review policy of presumption of denial for all items subject to the EAR.

The ERC determined to add Shanghai Integrated Circuit Research and Development Center and Shanghai Micro Electronics Equipment (Group) Co., Ltd. under the destination of China to the Entity List for acquiring and attempting to acquire U.S.-origin items in support of China's military modernization. This activity is contrary to the national security and foreign policy interests of the United States under § 744.11(b) of the EAR. These entities are added with a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR. Another BIS rule published in this same issue of the **Federal Register** is removing Shanghai Micro Electronics Equipment (Group) Co., Ltd. from the UVL for the reasons noted in the other rule. This entity is being added to the Entity List for reasons not related to the prevention of an end-use check.

The ERC determined to add PXW Semiconductor Manufactory Co., Ltd. under the destination of China to the Entity List for posing a significant risk of becoming involved in activities contrary to the national security or foreign policy interests of the United States. This determination is based on information that this company represents a risk of diversion to a party on the BIS Entity List. This activity is contrary to the national security or foreign policy interests of the United States under § 744.11(b) of the EAR. The ERC determined that the conduct of PXW Semiconductor Manufactory Co., Ltd. raises sufficient concern that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving this entity, and the possible imposition of license conditions or license denials on shipments to the entity, will enhance BIS's ability to prevent violations of the EAR. This entity is added with a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR.

The agencies represented on the ERC determined to add Yangtze Memory Technologies Co., Ltd. and Hefei Core Storage Electronic Limited under the destination of China and Yangtze Memory Technologies (Japan) Inc. under the destination of Japan to the Entity List for posing a significant risk of becoming involved in activities contrary to the national security or foreign policy interests of the United States. This request is based on information indicating that these companies present a risk of diversion to parties on the Entity List, to include Huawei Technologies Co., Ltd., and Hangzhou Hikvision Digital Technology Co., Ltd. This activity is contrary to the national security or foreign policy interests of the United States under § 744.11(b) of the EAR. The agencies represented on the ERC determined that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving these entities, and the possible imposition of license conditions or license denials on shipments to the entity, will enhance BIS's ability to prevent violations of the EAR. These entities are added with a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR.

The ERC determined to add AVIC Research Institute for Special Structures of Aeronautical Composites; AZUP International Group Co., Ltd.; Beijing HiFar Technology Co., Ltd.; Beijing Machinery Industry Automation Research Institute Co., Ltd.; Beijing Vision Strategy Technology Co., Ltd.; Shanghai Suowei Information Technology Co., Ltd.; and Zhongke Xinliang (Beijing) Technology Co., Ltd. to the Entity List. These entities are added for acquiring and attempting to acquire U.S.-origin items in support of China's military modernization. These entities have demonstrable ties to activities of concern, including: hypersonic weapons development, design and modeling of vehicles in hypersonic flight; designing and producing ballistic missile radomes, using proprietary software to model weapons design and damage; and otherwise supporting military-civil fusion efforts tied to the People's Liberation Army Air Force and Navy. This activity is contrary to the national

security and foreign policy interests of the United States under § 744.11(b) of the EAR. These entities are added with a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR.

The ERC determined to add Beijing UniStrong Science & Technology Co., Ltd. to the Entity List under the destination of China, for activity contrary to the national security or foreign policy interests of the United States. Specifically, Beijing UniStrong Science & Technology Co., Ltd. facilitated the illegal export of U.S.-origin electronics, controlled under Export Control Classification Number (ECCN) 7A994, to Iran for use in the production of military unmanned aerial vehicles and missile systems used in attacks throughout the Middle East. This activity is contrary to the national security or foreign policy interests of the United States under § 744.11(b) of the EAR. This entity is added with a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR.

The ERC determined, pursuant to § 744.11(b) of the EAR, to add Tianjin Tiandi Weiye Technologies Co., Ltd. under the destination of China to the Entity List for engaging in or enabling activities contrary to U.S. foreign policy interests. Specifically, this entity has been implicated in human rights violations and abuses in the implementation of China's campaign of repression, mass arbitrary detention, and high-technology surveillance against Uyghurs, Kazakhs, and other members of Muslim minority groups in the Xinjiang Uyghur Autonomous Region (XUAR). This entity also has enabled the procurement of U.S.-origin items for use by the Islamic Revolutionary Guard Corps. These activities are contrary to U.S. national security and foreign policy interests under § 744.11(b) of the EAR. This entity is added with a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR.

For the reasons described above, this final rule adds the following thirty-six entities to the Entity List and includes, where appropriate, aliases:

China

- Anhui Cambricon Information Technology Co., Ltd.,
- AVIC Research Institute for Special Structures of Aeronautical Composites,
- AZUP International Group Co., Ltd.,
- Beijing HiFar Technology Co., Ltd.,
- Beijing Machinery Industry Automation Research Institute Co., Ltd.,
- Beijing UniStrong Science & Technology Co., Ltd.,
- Beijing Vision Strategy Technology Co., Ltd.,
- Cambricon (Hong Kong) Co., Ltd.,
- Cambricon (Kunshan) Information Technology Co., Ltd.,
- Cambricon Jixingge (Nanjing) Technology Co., Ltd.,
- Cambricon (Nanjing) Information Technology Co., Ltd.,
- Cambricon Technologies Corporation Limited,
- Cambricon (Xi'an) Integrated Circuit Co., Ltd.,
- CETC Cloud (Beijing) Technology Co., Ltd.,
- CETC LES Information System Group Co., Ltd.,
- China Electronics Technology Group Corporation No. 28 Institute,
- Chinese Academy of Sciences Institute of Computing Technology,
- Guangdong Qinzhi Technology Research Institute Co., Ltd.,
- Hefei Core Storage Electronic Ltd.,
- Key Laboratory of Information Systems Engineering,
- Nanjing Aixi Information Technology Co., Ltd.,
- Nanjing LES Cybersecurity and Information Technology Research Institute Co., Ltd.,
- Nanjing LES Electronic Equipment Co., Ltd.,
- Nanjing LES Information Technology Co., Ltd.,
- PXW Semiconductor Manufactory Co., Ltd.,
- Shanghai Cambricon Information Technology Co., Ltd.,
- Shanghai Integrated Circuit Research and Development Center,
- Shanghai Micro Electronics Equipment (Group) Co., Ltd.,
- Shanghai Suowei Information Technology Co., Ltd.,
- Suzhou Cambricon Information Technology Co., Ltd.,
- System Equipment Co., Ltd. of the 28th Research Institute (Liyang),
- Tianjin Tiandi Weiye Technologies Co., Ltd.,
- Xiong'an Cambricon Technology Co., Ltd.,
- Yangtze Memory Technologies Co., Ltd., and
- Zhongke Xinliang (Beijing) Technology Co., Ltd.

Japan

- Yangtze Memory Technologies (Japan) Inc.

Revisions to the Entity List

This final rule revises three existing entries, under the destination of China.

The ERC determined to modify the entry for China Electronics Technology Group Corporation 13th Research Institute (CETC 13) under the destination of China, first added to the Entity List on August 1, 2018 (83 FR 37427). Prior to this rule, the CETC 13 entry included 12 subordinate institutions (*i.e.,* Bowei Integrated Circuits; Envoltek; Hebei Brightway International; Hebei Medicines Health; Hebei Poshing Electronics; Hebei Puxing Electronic; Hebei Sinopack Electronics; Micro Electronic Technology; MT Microsystems; North China Integrated Circuit Corporation; Shijiazhuang Development Zone Maiteda Microelectronics Technology Development and Application Corporation; and Tonghui Electronics).

With this rule, there are two primary changes to the CETC 13 entry. First, each of the 12 subordinate institutions are now detailed under their own entries and this rule adds those entries as separate entries to the Entity List. Second, the entries for CETC 13 and the subordinate institution Micro Electronic Technology, which as described above is being added under its own entry, are being modified. The ERC determined these two entities are Russian 'military end users' pursuant to § 744.21. As Russian 'military end users' they are now given a footnote 3 designation in their license requirement. As Russian 'military end users' with a footnote 3 designation, CETC 13 and Micro Electronic Technology are now subject to the Russia/Belarus-Military End User foreign "direct product" (FDP) rule, detailed in § 734.9(g). This decision is based on information that these companies contribute to Russia's military and/or defense industrial base. Specifically, the ERC determined that these entities have previously supplied items to Russian parties before February 24, 2022 (Russia's further invasion of Ukraine), and continue to contract to supply items to Russian parties after February 24, 2022. As a conforming change, licenses for CETC 13 and Micro Electronic Technology will be reviewed under a policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. *See* §§ 746.8(b) and 744.21(e). The remaining 11 subordinate institutions will retain the original entry's license requirement for all items subject to the EAR, which will be reviewed under a presumption of denial.

The ERC has determined to modify the entry for HSJ Electronics, under the destination of China, first added to the Entity List on December 17, 2021 (86 FR

71560), by adding one additional alias and four additional addresses.

The ERC has determined to modify the entry for Tenco Technology Company Limited, under the destination of China, first added to the Entity List on May 14, 2019 (84 FR 21236), by adding one additional alias and one additional address.

Addition to the Entity List and Conforming Removal From the Unverified List

As described above under the additions to the Entity List section, the agencies represented on the ERC determined to add Yangtze Memory Technologies Co., Ltd. under the destination of China to the Entity List for posing a significant risk of becoming involved in activities contrary to the national security or foreign policy interests of the United States. This entity is being added to the Entity List for reasons not related to the prevention of an end-use check. Prior to this rule, Yangtze Memory Technologies Co., Ltd. was listed on the Unverified List in supplement no. 6 to part 744 of the EAR. For consistency with the existing BIS policy of not listing an entity on more than one of these lists at the same time, this rule makes the conforming change to remove the entity from the UVL.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. Sections 4801–4852. ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this final rule.

Savings Clause

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on December 16, 2022, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and commodity classifications, and carries a burden estimate of 29.4 minutes for a manual or electronic submission for a total burden estimate of 33,133 hours. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 744—CONTROL POLICY: END-USER AND END-USE BASED

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 19, 2022, 87 FR 57569 (September 21, 2022); Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 2. Amend supplement no. 4 to part 744 by:

■ a. Under PEOPLE'S REPUBLIC OF CHINA:

■ i. Adding in alphabetical order entries for ''Anhui Cambricon Information Technology Co., Ltd.,'' ''AVIC Research Institute for Special Structures of Aeronautical Composites,'' ''AZUP International Group Co., Ltd.,'' ''Beijing HiFar Technology Co., Ltd.,'' ''Beijing Machinery Industry Automation Research Institute Co., Ltd.,'' ''Beijing UniStrong Science & Technology Co., Ltd.,'' ''Beijing Vision Strategy Technology Co., Ltd.,'' ''Cambricon (Hong Kong) Co., Ltd.,'' ''Cambricon Jixingge (Nanjing) Technology Co., Ltd.,'' ''Cambricon (Kunshan) Information Technology Co., Ltd.,'' ''Cambricon (Nanjing) Information Technology Co., Ltd.,'' ''Cambricon Technologies Corporation Limited,'' ''Cambricon (Xi'an) Integrated Circuit Co., Ltd.,'' ''CETC Cloud (Beijing) Technology Co., Ltd.,'' and ''CETC LES Information System Group Co., Ltd.'';

■ ii. Revising the entry for ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13)'';

■ iii. Adding in alphabetical order entries for ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Bowei Integrated Circuits,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Envoltek,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Brightway International,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Medicines Health,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Poshing Electronics,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Puxing Electronic,'' ''China Electronics Technology Group

Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Sinopack Electronics,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Micro Electronic Technology,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: MT Microsystems,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: North China Integrated Circuit Corporation,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Shijiazhuang Development Zone Maiteda Microelectronics Technology Development and Application Corporation,'' ''China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Tonghui Electronics,'' ''China Electronics Technology Group Corporation No. 28 Institute,'' ''Chinese Academy of Sciences Institute of Computing Technology,'' ''Guangdong Qinzhi Technology Research Institute Co., Ltd.,'' and ''Hefei Core Storage Electronic Ltd.'';

■ iv. Revising the entry for ''HSJ Electronics'';

■ v. Adding in alphabetical order entries for ''Key Laboratory of Information Systems Engineering,'' ''Nanjing Aixi Information Technology Co., Ltd.,'' ''Nanjing LES Cybersecurity and Information Technology Research Institute Co., Ltd.,'' ''Nanjing LES Electronic Equipment Co., Ltd.,'' ''Nanjing LES Information Technology Co., Ltd.,'' ''PXW Semiconductor Manufactory Co., Ltd.,'' ''Shanghai Cambricon Information Technology Co., Ltd.,'' ''Shanghai Integrated Circuit Research and Development Center,'' ''Shanghai Micro Electronics Equipment (Group) Co., Ltd.,'' ''Shanghai Suowei Information Technology Co., Ltd.,'' ''Suzhou Cambricon Information Technology Co., Ltd.,'' and ''System Equipment Co., Ltd. of the 28th Research Institute (Liyang)'';

■ vi. Revising the entry for ''Tenco Technology Company Ltd.''; and

■ vii. Adding in alphabetical order entries for ''Tianjin Tiandi Weiye Technologies Co., Ltd.,'' ''Xiong'an Cambricon Technology Co., Ltd.,'' ''Yangtze Memory Technologies Co., Ltd.,'' and ''Zhongke Xinliang (Beijing) Technology Co., Ltd.''; and

■ b. Under JAPAN, adding in alphabetical order an entry for ''Yangtze Memory Technologies (Japan) Inc.''.

The additions and revisions read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	Federal Register citation
* * * * * * *				
CHINA, PEOPLE'S REPUBLIC OF.	* * * * * *			
	Anhui Cambricon Information Technology Co., Ltd., a.k.a., the following three aliases: —Anhui Cambrian; —Anhui Cambrian Information Technology; *and* —Anhui Cambricon. No. 3333 Xiyou Road, High-tech Zone, Hefei City, Anhui Province, China Room 611–194, R&D Center Building, International Intelligent Voice Industrial Park.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* * * * * *			
	AVIC Research Institute for Special Structures of Aeronautical Composites, a.k.a., the following two aliases: —AVIC RISAC; *and* —AVIC 637th Research Institute. No. 19, Jiqi Road, Jinan, Shandong, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* * * * * *			
	AZUP International Group Co., Ltd., a.k.a., the following one alias: —Beijing AZUP Scientific Co., Ltd. Rm7–1–1, Langchao Xinxi Building, No. 2 Xinxi Road, Haidian District, Beijing, China; *and* 7th Floor, Building C, East District, International Pioneer Park, No. 2 Shangdi Information Road, Haidian District, Beijing, China; *and* B1–1422, Huitong Plaza, No. 31 Yuangang Heng Road, Tianhe District, Guangzhou, China; *and* Room 1602, Building 10, Phase 6, Forte East Lake International, Wuchang District, Wuhan City, China; *and* Room 1106, Block C, International Apartment, No. 37 Tangyan Road, High-tech Zone, Xi'an City, China; *and* 300#, Building 1, Shanghai Huigu, No. 641, Tianshan Road, Shanghai, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* * * * * *			
	Beijing HiFar Technology Co., Ltd., a.k.a., the following one alias: —Beijing Huatian Haifeng Technology Co., Ltd. 10F, Unit 3 (Block C), 9th Floor, Building 2, Jinyuan Times Business Center, Landianchang East Road, Haidian District, Beijing, China; *and* Unit C&D 3F Howming, Factory Building, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* * * * * *			

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Beijing Machinery Industry Automation Research Institute Co., Ltd., a.k.a., the following three aliases: —Beijing Research Institute of Automation for Machinery Industry; —RAIMB; *and* —Beizi Institute. No. 113, Xinlong Road, Zhonglou District, Changzhou City, China; *and* Building 1,6, or 8, No. 1 Jiaochangkou Street, Xicheng District, Beijing, China; *and* Room 208, 2nd Floor, Building 13, Yard 53, Yangqi Street, Yangqi Economic Development Zone, Huairou District, Beijing, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Beijing UniStrong Science & Technology Co., Ltd., Courtyard 8, Kechuang 12th Street, Daxing District Beijing, Beijing, 100176 China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Beijing Vision Strategy Technology Co., Ltd., a.k.a., the following one alias: —BVST. Room 509–1, 5th Floor, Building 23, Shangdi Jiayuan, Haidian District, Beijing, China; *and* Room 312, 3rd Floor, Lianchuang Building, No. 2 Dongbeiwang Road, Haidian District, Beijing, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Cambricon (Hong Kong) Co., Ltd., a.k.a., the following five aliases: —Cambrian Hong Kong; —Cambrian (Hong Kong) Co., Ltd.; —Cambricon Hong Kong; —Hong Kong Cambrian; *and* —Hong Kong Cambricon. RM19C Lockhart CTR 301–307, Lockhart Rd. Wan Chai, Hong Kong.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	Cambricon Jixingge (Nanjing) Technology Co., Ltd., a.k.a., the following three aliases: —Cambrian Jixingge (Nanjing) Technology Co., Ltd.; —Cambricon Xingge; *and* —Cambrian Xingge. 100 Tianjiao Road, Qilin Science and Technology Innovation Park, Nanjing, Room 201, 11th Floor, Building A, Qiaomengyuan, Nanjing, Jiangsu, China	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	Cambricon (Kunshan) Information Technology Co., Ltd., a.k.a., the following seven aliases: —Cambrian (Kunshan) Information Technology Co., Ltd.; —Cambricon Kunshan IT; —Cambrian Kunshan IT; —Cambricon Kunshan; —Cambrian Kunshan; —Kunshan Cambricon; *and* —Kunshan Cambrian. Room 5, No. 232 Yuanfeng Road, Yushan Town, Kunshan City, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	Cambricon (Nanjing) Information Technology Co., Ltd., a.k.a., the following five aliases: —Cambrian Nanjing Information Technology Co., Ltd.; —Cambricon Nanjing IT; —Cambrian Nanjing IT; —Nanjing Cambricon; *and* —Nanjing Cambrian. Room 201, 11th Floor, Building A, Qiaomengyuan, Nanjing, Jiangsu, China, *and* No. 100 Tianjiao Road, Qilin Science and Technology Innovation Park, Nanjing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.

Country	Entity	License requirement	License review policy	Federal Register citation
	Cambricon Technologies Corporation Limited, a.k.a., the following four aliases: —Cambrian; —Cambrian Technologies Corporation; —Cambricon; *and* —Zhongke Cambricon Technology. Room 1601, 16th Floor, Block D, Zhizhen Building, No. 7 Zhichun Road, Haidian District, Beijing, China; *and* Floor 11, 13, 14, 15, 16 Block D, No. 7 Zhichun Road, Haidian District, Beijing, China; *and* Building 1, Lane 2290, Zuchong Road, Pudong New Area, Shanghai, China; *and* 1101, 03–09, 1801, 04–06, 2104–06 Building 2 9th Floor, Tower T1, No. 1555, Haigang Avenue, Pudong New Area Shanghai, China; *and* 888 West Huanhui Road No. 2, Nanhui New Town, Shanghai, China; *and* 3404–05, 3406–10 3506–10 Block A, Tianxia Jinniu Plaza, No. 8 Taoyuan Road, Nantou Street, Nanshan District, Shenzhen, China; *and* 3506– 10, 35 F Building A Tianxiajin, Shenzhen, China; *and* 22nd Floor, Building A1, China Sound Valley, No. 3333, Xiyou Road, High-tech Zone, Hefei City, China; *and* 26th Floor, No. 3 Office Building, Fengyue Yunchuang Center, Junction of Haojing Avenue and Hanchi 1st Road, Fengdong New City, Xi'an, China; *and* 606, 607, 610, 611, Building A5, No. 266, Changyan Road, Jiangning District, Nanjing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	Cambricon (Xi'an) Integrated Circuit Co., Ltd., a.k.a., the following five aliases: —Cambrian (Xi'an) Integrated Circuit; —Cambricon (Xi'an) IC; —Cambrian (Xi'an) IC; —Xi'an Cambricon; *and* —Xi'an Cambrian. Xi'an, Fengdong New Town, Xi'an City, Shaanxi Province, 24th Floor, *and* No. 3 Runjingyiyuan at the Junction of Haojing Avenue and Hanchi 1st Road, Fengdong New City, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	CETC Cloud (Beijing) Technology Co., Ltd., a.k.a., the following five aliases: —CETC Cloud Technology Co., Ltd.; —Dianke Cloud (Beijing) Technology Co., Ltd.; —Dianke Cloud Technology Co., Ltd.; —China Electronic Technology Cloud Corporation; *and* —CEC Cloud. 4th Floor, Building 3, Yard 30, Jinfu Road, Shijingshan District, Beijing, China; *and* Building 3, No. 30 Yard, China Electronic Science and Technology Park, Shijingshan District, Beijing, China; *and* Room 1401, 14th Floor, Building 4, Yard 54, Shijingshan Road, Shijingshan District, Beijing, China; *and* Building A6, Land Geographic Information Industrial Park, Qixia District, Nanjing, China; *and* No. 11, Shuangyuan Road, Hi-Tech Park, Shijingshan District, Beijing, China; *and* 1 Hongtai Yujing Garden on the West Side of Jianshe Street and the North Side of Renhe Street,Luannan County, Hebei Province, Tangshan City, China; *and* 3103, Building 3, Zizhu, Shangri-La Garden, Fanglinquan Road, Yaohai District, Anhui Province, Hefei City, China; *and* Room 1016, No. 289, Chengxin Dajiao Road, Xihanggang Street, Shuangliu District, Sichuan Province, Chengdu City, China; *and* 7th Floor, Unit 1, Innovation Times Plaza, No. 555, North Section of Yizhou Avenue, High-tech Zone, Chengdu, China; *and* Area A, Jiangsu Geographic Information Industry Park, No. 18 Lingshan North Road, Xianlin Street, Qixia District, Nanjing City, China; *and* Building 6, Area A, Jiangsu Geographic Information Industry Park, No. 18 Lingshan North Road, Xianlin Street, Qixia District, Nanjing City, China; *and* Building 3, No. 211 Beiyan Road, Chongming District, Shanghai (Shanghai Chongming Forest Tourism Park), China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.

Country	Entity	License requirement	License review policy	**Federal Register** citation
	CETC LES Information System Group Co., Ltd., a.k.a., the following six aliases: —CLP LES Information System Group Co., Ltd.; —CLP Rice Information System Group Co., Ltd.; —CLP Rice Information System Co., Ltd.; —Electric LES; —CETC LES; *and* —Electric Coles. No. 1 Alfalfa Garden East Street, Qinhuai District, Nanjing, China; *and* No. 909, South District, No. 28, Qinhuai District, Nanjing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13), a.k.a., the following six aliases: —Hebei Semiconductor Research Institute; —HSRI; —Hebei Institute of Semiconductors; —Hebei Semiconductor Institute; —Hebei Semiconductor; *and* —CETC Research Institute 13. 113 Hezuo Road, Shijiazhuang, Hebei, China; and 21 Changsheng Street, Shijiazhuang, Hebei, China; and 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e)..	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Bowei Integrated Circuits, a.k.a., the following three aliases: —Hebei Bowei Integrated; —Hebei Bowel Technology; *and* —Shijuang Bowei. 113 Hezuo Road, Shijiazhuang, Hebei, China; *and* 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China; *and* Shijiazhuang New and Hi-Tech Dev Zone, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Envoltek, a.k.a., the following one alias: —Hebei Envoltek Electronics. 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: —Hebei Brightway International, 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Medicines Health, 113 Hezuo Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Poshing Electronics, a.k.a., the following three aliases: —Hebei Poshing Electronics —Hebei Posking Elec.; *and* —Hubei Poshing Electronics. 113 Hezuo Road, Shijiazhuang, Hebei, China; *and* 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Puxing Electronic, 113 Hezuo Road, Shijiazhuang, Hebei, China; *and* 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.

Country	Entity	License requirement	License review policy	Federal Register citation
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Hebei Sinopack Electronics, a.k.a., the following one alias: —Hebei Sinapack Elec. 113 Hezuo Road, Shijiazhuang, Hebei, China; *and* 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Micro Electronic Technology, a.k.a., the following three aliases: —Micro Electronic Technology Development Application Corp; —METDA; *and* —METDAC. 113 Hezuo Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e)..	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: MT Microsystems, 113 Hezuo Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: North China Integrated Circuit Corporation*,* 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China; *and* 113 Hezuo Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Shijiazhuang Development Zone Maiteda Microelectronics Technology Development and Application Corporation, 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	China Electronics Technology Group Corporation 13th Research Institute (CETC 13) subordinate institution: Tonghui Electronics, a.k.a., the following one alias: —Tonghui Electronics Technology. 21 Changsheng Street, Shijiazhuang, Hebei, China; *and* 21 Changsheng Road, Shijiazhuang, Hebei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	83 FR 37427, 8/1/18. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	China Electronics Technology Group Corporation No. 28 Institute, a.k.a., the following eight aliases: —The 28th Research Institute of China Electronics Technology Group Corporation; —28th Research Institute of China Electronics Technology Group Corporation; —CETC 28; —CETC28; —The 28th Institute; —Nanjing Institute of Electronic Engineering; —NRIEE; *and* —NIEE. Houbiaoying Rd., Bai Xia Qu, Nanjing, Jiangsu, China, 210095; *and* No. 99, Houbiaoying Road, Qinhuai District, Jiangsu Province, Nanjing City, China; *and* 1–2 Alfalfa Garden East Street, Jiangsu Province, Nanjing City, China *and* No. 1 Yongzhi Road, Qinhuai District, Nanjing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR)[4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Chinese Academy of Sciences Institute of Computing Technology, a.k.a., the following four aliases: —Institute of Computing Technology Chinese Academy of Sciences; —Institute of Computing Technology; —CAS ICT; *and* —ICT CAS. No. 6, South Academy of Sciences Road, Zhongguancun, Haidian District, Beijing, China *and* No. 6 Kexueyuan South Road, Zhongguaneun, Haidian District, Beijing, China *and* No. 6 Kexueyuan South Road, Zhonggu, Haidian District, Beijing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR)[4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
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Country	Entity	License requirement	License review policy	**Federal Register** citation
	Guangdong Qinzhi Technology Research Institute Co., Ltd., a.k.a., the following four aliases: —Qinzhi Technology; —Qinzhi Tech; —Qinzhi Institute; *and* —GD Qinzhi. 2nd Floor, Block C, Building 20, Hengqin Creative Valley, Hangqin New District, Guangdong Province Zhuhai City, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Hefei Core Storage Electronic Ltd., a.k.a., the following three aliases: —HF CoreStorage; —CoreStorage; *and* —Hefei Zhaoxin. 13th Floor, Building F3, Phase II, Innovation Industrial Park, High-tech Zone, Anhui Province, Hefei City, China; *and* 6th Floor and 12th–13th Floor, Building F3, Phase II, Innovation Industrial Park, No. 2800, Chuangxin Avenue, High-tech Zone, Hefei, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	HSJ Electronics, a.k.a., the following two aliases: —HSJ Electronic Hong Kong Limited; *and* —Shenzhen HSJ Electronics Co. Ltd. Room 803, Chevalier House 45–51, Chatham Road South, Tsim Sha Tsui, Hong Kong; *and* 10/F Kras Asia Industrial Building 79 Hung to Road, Kowloon, Hong Kong; *and* 19/F Pat Tat Industrial Building, 1 Pat Tat Street, San Po Kong, Kowloon, Hong Kong; *and* Room 6905, SEG Plaza, Futian, Shenzhen, China; *and* Room 831, Nanguang Building, Shennan Middle Road, Futian, Shenzhen, China; *and* 3f, N, 2 East Technology Park Tongsheng Industrial Park Dalang Town Baoan District, Shenzhen, Guangdong, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	86 FR 71559, 12/17/21. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Key Laboratory of Information Systems Engineering, a.k.a., the following two aliases: —KLISE; and —Key Laboratory of Information Systems Engineering. Science and Technology Building of the National University of Defense Technology.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Nanjing Aixi Information Technology Co., Ltd., a.k.a., the following alias: —Nanjing Aixi IT. No. 18, Xianlin Avenue, Maqun Street, Qixia District, Nanjing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Nanjing LES Cybersecurity and Information Technology Research Institute Co., Ltd., a.k.a., the following six aliases: —Nanjing Laisi Netcom Technology Research Institute Co., Ltd.; —Nanjing Laisi Network Information Technology Research Institute Co., Ltd.; —Nanjing LES Network Information Technology Research Institute Co., Ltd.; —Nanjing LES Netcom Technology Research Institute Co., Ltd.; —Laisi Netcom; *and* —LES Netcom. Building 05, Tianan Digital City, No. 36 Yongfeng Avenue, Qinhuai District, Nanjing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	Nanjing LES Electronic Equipment Co., Ltd., a.k.a., the following five aliases: —Nanjing Rice Electronic Equipment Co., Ltd.; —LES Electronics; —Rice Electronics; —LES Electronic; *and* —Rice Electronic. No. 1 Alfalfa Garden East Street, Qinhuai District, Nanjing, China; *and* Jiangsu Province, Building 05, Tianan Cyber City, No. 36 Yongfeng Avenue, Qinhuai District, Nanjing, China; *and* No. 99, Houbiaoying Road, Qinhuai District, Jiangsu Province Nanjing City, China; *and* No. 8 Yongzhi Road, Qinhuai District, Nanjing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Nanjing LES Information Technology Co., Ltd., a.k.a. the following alias: —Nanjing Rice Information Technology Co., Ltd. No. 8 Yongzhi Road, Qinhuai District, Nanjing, China; *and* Room 1609 Building 101 No. 8 Yongzhi Road, Nanjing, China; *and* No. 1 Muxu Yuan Str Zhongshanmenwai, Nanjing, China; *and* E01–369, No. 861–1, Shangshengou Village, Hunnan District, Shenyang City, Liaoning Province, China; *and* No. 861–1 Shangshengou Village, Hunnan District, Shenyang City, Liaoning Province, E01–369, China; *and* No. 3, Daxing Community, No. 533, Lihan West Avenue, Xitianwei Town, Licheng District, Putian City, Fujian Province, China; *and* Room 10617, Tianlang Weilan Internationa. No. 3, Daqing Road, Lianhu District, Xi'an City Shaanxi Province, China; *and* Room 602, 6th Floor, Building 3, No. 3 Yongfu Road, Yuexiu District, Guangzhou City, China; *and* No. 533 Lihan West Avenue, Xitianwei Town, Licheng District, Putian City, Fujian Province, China; *and* Room 272, Unit 2, Building 1, No. 76–2, Xiaoqiao Street, Chengbei District, Xining City, China; *and* Room 702–21, Fujian Building, Huaxing Road, Hedong District, Tianjin, China; *and* No. 2020, 20th Floor, Unit 2, Building 20, No. 466, Wandong Road, Wan'an Town, Tianfu New District, Chengdu, Sichuan Province, China; *and* 3017B, 3rd Floor, Building 11, No. 66, Tiantan East Road, Dongcheng District, Beijing, China; *and* No. 26, 1st Floor, Commercial Plot, Longxiangyuan Building, Didang Street, Yuecheng District, Shaoxing City, Zhejiang Province, China; *and* Room A123, Unit C1–2, No. 859, Panxu Road, Gusu District, Suzhou City, China; *and* No. 1, 7th Floor, Building 3, No. 3, Xingguang 5th Road, Liangjiang New District, Chongqing, China; *and* Room 601, Unit 1, Building 2, Yashiyuan, Guorui City, No. 7 Daying East Road, Meilan District, Haikou City, Hainan Province, China; *and* No. 1403B, 14th Floor, Block A (Unit 1), Building 1, Oriental Pearl Garden, no. 40–1, Shuangyong Road, Qingxiu District, Nanning City, China; *and* Room 510, 5th Floor, Building A, Building 3, Muhua Plaza, Dongzheng Shang Huhua Plaza, Mingli Road, West Lake Xindao Road, Longzihu Wisdom Island, Zhengdong New District, Zhengzhou City, China; *and* 6F–B606, Qingchuang Space Building, Huai'an Ecological Cultural Tourism Zone, China; *and* Room 426, 4th Floor, Management Committee of Industrial and Trade Park, Baoshan City, Yunnan Province, China; *and* No. 17, 5th Floor, No. 2, Heping Road, Xiangfang District, Harbin, China; *and* No. 6, 1st Floor, Building 1, Xiangzhangyuan, Wisdom Longcheng, Songshan Road, Yunyan District, Guiyang City, Guizhou Province, China; *and* Room 1–102–658, Maker Space Room, No. 3, Pudong Street, Shanghai Road, Economic and Technological Development Zone, Urumqi, Xinjiang, China; *and* Room 303–31, No. 88, Shangpo Street, Shangpo Village, Chengguan Town, Rongcheng County, Baoding City, Hebei Province, China; *and* 2322–2323, Block A, Building 3, Guogou Plaza (Commercial), Xiangshan District, Huaibei City, Anhui Province, China; *and* Room 901, 9th Floor, Building 1, Qilin Science and Technology Park, No. 20, Qiyun Road, Changsha High-tech Development Zone, China; *and* Room 402, No. 669, Fong Road, Huangdao District, Qingdao City, Shangdong Province, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.

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Country	Entity	License requirement	License review policy	**Federal Register** citation
	PXW Semiconductor Manufactory Co., Ltd., a.k.a., the following seven aliases: —Peng Chip; —Shenzhen Peng Xin Wei IC Manufacturing; —Shenzhen Pengxin Micro Integrated Circuit Manufacturing Co., Ltd.; —PengXinWei; —PXW; —PXWSemi; *and* —Pengxin Micro. Room 727, Shanxia Building, No. 160, Xinxia Avenue, Shanxia Community, Pinghu Street, Longgang District, Shenzhen, 518111, China; *and* Building D, Zhongke Valley Industrial Park, Zhonghuan Avenue, Shanxia Community, Pinghu Street, Longgang District, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
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	Shanghai Cambricon Information Technology Co., Ltd., a.k.a. the following eight aliases: —Shanghai Cambrian Information Technology; —Shanghai Cambricon IT; —Shanghai Cambrian IT; —Shanghai Cambricon Info Tech; —Shanghai Cambrian Info Tech; —Shanghai Cambricon Information; —Shanghai Cambricon; *and* —Shanghai Cambrian. No. 888, Huanhu West 2nd Road, Lingang New Area, China (Shanghai) Pilot Free Trade Zone *and* 888 West Huanhu Road No. 2, Shanghai, China *and* No. 888 West 2nd Huanhu Road, Shanghai. China *and* 888 West Huanhu Road No. 2 Nanhui New Town, Pudong New Area, Shanghai, China *and* Rm 1805, Zhanxiang Plaza Bldg 1 2290 Zuchonggzhi Road, Shanghai, China *and* Room 1201, 12th Floor, Block D, Beijing, China *and* No. 176 5, 6 Ling Huallung Chun, Chiung Lin Hsin Chiu Hsien, China *and* No. 7 Zhichun Road, Haidian Beijing *and* 11th Layer, Building D, Zhizhen Building No. 7 Zhuchun Beijing, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR)[4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Shanghai Integrated Circuit Research and Development Center, a.k.a., the following two aliases: —Shanghai IC R&D Center; *and* —ICRD. No. 497, Goasi Road, Zhangjiang Hi-Tech Park, Pudong New Area, Shanghai, China; *and* No. 3000, Longdong Avenue, Pilot Free Trade Zone, Shanghai, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	Shanghai Micro Electronics Equipment (Group) Co., Ltd., a.k.a., the following four aliases: —Shanghai Microelectronics (Group) Co., Ltd.; —Shanghai Micro Electronics Equipment Company; —Shanghai Microelectronics Equipment Company; *and* —SMEE. No. 1525 Zhangdong Road, Pilot Free Trade Zone, Shanghai, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Shanghai Suowei Information Technology Co., Ltd., a.k.a., the following two aliases: —Beijing Suowei System Technology Co., Ltd.; *and* —Sysware. Room 516, Building 20, Lane 8633, Zhongchun Road, Minhang District, Shanghai, China; *and* Room 2104, No. 70, Caobao Road, Xuhui District, Shanghai, China; *and* Building 9, Aobei Science and Technology Park, No. 1 Baosheng South Road, Haidian District, Beijing, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
*	*	*	*	*
	Suzhou Cambricon Information Technology Co., Ltd., a.k.a., the following five aliases: —Suzhou Cambrian Information Technology Co., Ltd.; —Suzhou Cambricon IT; —Suzhou Cambrian IT; —Suzhou Cambricon; *and* —Suzhou Cambrian. Unit E502–3, International Science and Technology Park, No. 1355 Jinjihu Avenue, Suzhou Industrial Park, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR)[4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.

Country	Entity	License requirement	License review policy	Federal Register citation
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	System Equipment Co., Ltd. of the 28th Research Institute (Liyang), a.k.a. the following three aliases: —Liyang No. 28 System Equipment Co., Ltd.; —Liyang 28th System Equipment Co., Ltd.; *and* —CEV. No. 26 Yongsheng Road, Kunlun Street, Liyang City, China; *and* No. 90, East Pingling Road, Licheng Town, Liyang City, China; *and* No. 26, Shangshang Road, Licheng Town, Liyang City, Jiangsu Province, China.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* *	* *	*	*
	Tenco Technology Company Ltd., a.k.a., the following four aliases: —Redd Forest Technology Company Limited; —Shenzhen Shengfaweiye Electronic Co., Ltd.; —Shenzhen Tenco Technology Co., Ltd.; *and* —Tenco International Co., Ltd. Room 2709, Block A, Jiahe Huaqiang Building, Shennan Middle Rd., F Shenzhen, Guangdong 518007, China; *and* Room 2709, Block A, Jiahe Building, Shennan Mid Road, Futian District, Shenzhen, 518000, China; *and* Room 311 3F Genplas Industrial Building, 56 Hoi Yuen Road, Kwun Kowloon, Hong Kong; *and* Room 15, 6F Corporation Square, 8 Lam Lok Street, Kowloon Bay, Hong Kong; *and* Room 801, Number 15, Building 14, Xiayousong Village, Longhua Street, Longhua District, Shenzhen, China 518000.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	84 FR 21236, 5/14/19. 85 FR 83769, 12/23/20. 87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* *	* *	*	*
	Tianjin Tiandi Weiye Technologies Co., Ltd., a.k.a., the following one alias: —Tiandy Technologies. No. 8, Huake 2nd Road, Binhai High-tech Zone (Huayuan), Tianjin, China 300384.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* *	* *	*	*
	Xiong'an Cambricon Technology Co., Ltd., a.k.a. the following three aliases: —Xiong'an Cambrian Technology Co., Ltd.; —Xiong'an Cambricon; *and* —Xiong'an Cambrian. Leader Jin Street A-, Rongcheng County, Baoding City, Hebei Province, China No. 72–1.	For all items subject to the EAR. (See §§ 734.9(e)(2) and 744.11 of the EAR) [4]	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	Yangtze Memory Technologies Co., Ltd., a.k.a., the following three aliases: —Changjiang Cunchu; —YMTC; *and* —Changjiang Storage Technology. 88 Weilai 3rd Road, East Lake High-tech Development Zone, Wuhan, Hubei, China; *and* Room 104, Block A, Ziguang Information Port, Nanshan District, Shenzhen, China; *and* No. 88, Future 3rd Road, Donghu, New Technology Development Zone, Wuhan City, Hubei Province, China; *and* Building 45, No. 1387 Zhangdong Road, Pilot Free Trade Zone, Shanghai, China; *and* No. 18, Gaoxin 4th Road, Donghu New Technology Development Zone, Wuhan, China; *and* Room 3201, 32nd Floor, Hu Zhong Building, 213 Queen's Road East, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* *	* *	*	*
	Zhongke Xinliang (Beijing) Technology Co., Ltd., a.k.a., the following two aliases: —Xinlian Technology Co., Ltd.; *and* —Sinoinfoun. Room 131, 1st Floor, Building 3, No. 6, Fufeng Road, Science City, Fengtai District, Beijing, China; *and* 1103–2, Building 1, Beihang Science and Technology Park, No. 588 Feitian Road, National Civil Aerospace Industry Base, Shaanxi Province, Xi'an City, China.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.
	* *	* *	*	*
JAPAN	* *	* *	*	*
	Yangtze Memory Technologies (Japan) Inc., a.k.a., the following one alias: —JYM Technology Co., Ltd. New Tokyo Building 2F, 3–3–1 Marunouchi, Chiyoda-ku, Tokyo 100–0005, Japan.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER], 12/19/2022.

Country	Entity	License requirement	License review policy	Federal Register citation
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[3] For this entity, ''items subject to the EAR'' includes foreign-produced items that are subject to the EAR under § 734.9(g) of the EAR. See §§ 746.8 and 744.21 of the EAR for related license requirements, license review policy, and restrictions on license exceptions.

[4] For this entity, ''items subject to the EAR'' includes foreign-produced items that are subject to the EAR under § 734.9(e)(2) of the EAR. See § 744.11(a)(2)(ii) for related license requirements and license review policy.

Supplement No. 6 to Part 744—[Amended]

■ 3. Supplement no. 6 to part 744 is amended under CHINA, PEOPLE'S REPUBLIC OF, by removing the entity ''Yangtze Memory Technologies Co., Ltd.''.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2022–27151 Filed 12–15–22; 8:45 am]

BILLING CODE 3510–33–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 222, 224, 225, 233, 234 and 235

[Docket No. 2022–6]

Copyright Claims Board: District Court Referrals; Proof of Service Forms; Default Proceedings; Law Student Representation

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Interim rule; request for comments.

SUMMARY: The U.S. Copyright Office is amending its regulations governing the appearance of law student representatives before the Copyright Claims Board, district court referrals, proof of service forms, and default proceedings. The amendments allow the Copyright Claims Board to modify or suspend certain rules when a claim is referred by a district court and, in cases that are first filed before the Copyright Claims Board, accept alternative proof of service forms. The amendments also clarify the rules governing default proceedings and law student representation, and make certain technical corrections.

DATES: *Effective date:* The interim rule is effective December 19, 2022.

Comments due date: Written comments must be received no later than 11:59 p.m. Eastern Time on February 2, 2023.

ADDRESSES: For reasons of Government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office's website at *https://www.copyright.gov/rulemaking/case-act-implementation/district-court-referrals/.* If electronic submission of comments is not feasible due to lack of access to a computer or the internet, please contact the Copyright Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Megan Efthimiadis, Assistant to the General Counsel, by email at *meft@copyright.gov* or telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Alternative in Small-Claims Enforcement (''CASE'') Act of 2020 [1] directed the Copyright Office to establish the Copyright Claims Board (''CCB''), a voluntary forum for parties seeking resolution of certain copyright disputes that have a total monetary value of $30,000 or less. The CCB is an alternative forum to Federal district court and is designed to be accessible to *pro se* individuals and individuals without much formal exposure to copyright.[2] In early 2021, the Office published a notification of inquiry (''NOI'') asking for public comments on the CCB's operations and procedures.[3]

Following the NOI, the Office published multiple notices of proposed rulemaking (''NPRMs''), including proposing rules governing the representation of parties before the CCB by law students [4] and the conduct of proceedings before the CCB.[5] After receiving and considering comments submitted by the public, the Office published final rules.[6] On June 16, 2022, the CCB began receiving claims through its website *dockets.ccb.gov.*

II. Interim Rule and Request for Comments

After reviewing its regulations, the Office is clarifying the rules governing law student representation, adding a rule to address district court referrals, and amending the rules governing initiating proceedings and active proceedings, in particular those related to submitting a proof of service form and to default proceedings. The amendment also makes corrections for typographical errors and consistency.

Law Student Representation

In its law school representation rulemaking, the Office had proposed that qualified law students affiliated with a qualifying law school clinic could represent parties before the CCB.[7] The proposed rule explained that the Office was ''incorporat[ing] the requirements for law student representation provided by the law of the jurisdiction that certifies the student to practice in connection with a law school clinic.'' [8] This requirement was included in the final rule.[9] Since the rule's publication, the Office has become aware that some parties have interpreted the use of the word ''certifies'' to denote a formal law student certification process. The use of the word ''certifies'' was intended to mean ''allows, authorizes, or permits'' and did not necessarily contemplate a formal certification process (unless such a process is required by the law student's jurisdiction for participation in a law school–connected clinic). Additionally, the Office understands that, in some jurisdictions, court or bar rules may govern law student representation rather than state law. The Office is revising its regulations to replace the word ''certifies'' with

[1] Public Law 116–260, sec. 212, 134 Stat. 1182, 2176 (2020).

[2] *See, e.g.,* H.R. Rep. No. 116–252, at 18–20 (2019).

[3] 86 FR 16156 (Mar. 26, 2021).

[4] 86 FR 74394 (Dec. 30, 2021).

[5] 86 FR 53897 (Sept. 29, 2021); 86 FR 69890 (Dec. 8, 2021).

[6] 87 FR 20707 (Apr. 8, 2022) (law student representation final rule); 87 FR 12861 (Mar. 8, 2022) (initial proceedings partial final rule); 87 FR 16989 (Mar. 25, 2022) (initial proceedings final rule); 87 FR 24056 (Apr. 22, 2022) (initial proceedings correction); 87 FR 30060 (May 17, 2022) (active proceedings final rule); 87 FR 36060 (June 15, 2022) (active proceedings correction).

[7] 86 FR 74394, 74395.

[8] *Id.*

[9] In the final rule, law students affiliated with a *pro bono* legal services organization with a connection to the student's law school were also permitted to represent parties before the CCB. 87 FR 20707, 20709–10.

''allow, authorize, or permit'' to ensure that the definition of ''applicable law'' is broad enough to include court or bar rules and to fix an incorrect cross reference.

Finally, the Office is amending its regulations concerning law student representation to make clear that these regulations only apply to law students who formally appear in CCB proceedings. As the Office previously recognized, law students may provide legal assistance related to CCB proceedings in ways that do not rise to the level of a formal appearance. For example, a student may assist a party by evaluating the strength of the party's claim or defense, drafting pleadings and other documents, advising a party about service of process, or explaining the CCB's regulations or processes.[10] Under the rules governing the CCB, such activities without more would not constitute an ''appearance'' before the CCB and, therefore, are not within the scope of the CCB's regulations regarding law student appearances. However, the Office cautions that these activities may be subject to state or local laws, court rules, or bar rules, which might impose other requirements on such student activities. We continue to encourage law students to assist CCB parties in accordance with applicable law, regardless of the form that assistance takes.

District Court Referrals

The CASE Act provides that CCB proceedings ''shall qualify as an alternative dispute resolution process under [28 U.S.C. 651] for purposes of referral of eligible cases by district courts of the United States upon the consent of the parties.'' [11] The alternative dispute resolution (''ADR'') process referenced allows a district court to refer litigants appearing before it to one of several ADR procedures with the goal of resolving the dispute prior to a trial. One of these ADR procedures, arbitration, involves a resolution of the parties' claims and defenses on the merits and accordingly requires the consent of both parties. Similarly, the CASE Act requires that a district court's referral of a dispute to the CCB for resolution occur only when both parties consent.[12]

The CASE Act created a tribunal for the resolution of certain copyright claims in a manner more efficient and less costly than in district court. The CCB's treatment of cases referred to it by district courts should be consistent with these goals. The Office understands the Act's referral provision to anticipate that such referrals would be resolved on the merits by the CCB, which would issue a final decision, subject to the CASE Act's provisions for reconsideration and review.[13] Certain CASE Act provisions, *e.g.,* those governing service of the claim and opting out, are superfluous and inconsistent with a streamlined process in the referral context. If the CCB required Federal court litigants, who have already consented to a referral to the CCB, to comply with unnecessary procedural rules, the goals of the Act would be undermined.

Accordingly, while the Office believes that the CCB's procedural steps and regulations serve an important role, adhering to certain provisions would not always be in the parties' (or the CCB's) interests. For example, claims referred from district courts are likely to come to the CCB at different stages of litigation, including before, during, or after discovery or substantive motion practice, which may narrow or amend the issues in dispute. Moreover, it would be inefficient for parties to undertake discovery as set forth in CCB regulations if they previously had completed discovery during district court proceedings. Finally, it is unnecessary to engage in the opt-out process when both parties have consented to having their claims decided by the CCB. At the same time, other provisions, such as those governing the CCB's ability to set conferences as needed, the types of evidence that can be submitted at virtual hearings, records and publication, requests for reconsideration, the Register's review, party conduct, law student representation, class action opt-out procedures, and dismissal for unsuitability seem equally appropriate for all claims before the CCB.

When a claim is referred to the CCB by a district court on consent of the parties pursuant to 17 U.S.C. 1509(b), the Office proposes that the parties to that case email the CCB as soon as possible (at *asktheboard@ccb.gov*) for further instructions on how to continue proceedings before the CCB, including on how to open a docket in eCCB outside of the standard process. The CCB will issue a scheduling order, schedule a conference with the parties, and use its discretion to adjust or suspend standard rules that would otherwise apply, subject to identified exceptions, in the interests of efficiently resolving the dispute.

Going forward, the Office does not propose requiring claimants to pay a fee under 37 CFR 201.3(g)(1) for claims referred from a district court. Further, claims referred by district courts will not be included when calculating the maximum number of proceedings a clamant, attorney, or law firm can bring before the CCB.[14]

Proof of Service Form, Evidence in Default Determinations, and Edits for Consistency

In its initiating proceeding regulations, the Office required claimants to ''file a completed proof of service form'' to evidence that service of the claim on the respondent had been completed, and stated that such ''proof of service form shall be located on the Board's website.'' [15] The amendments proposed here will make clear that claimants may submit proof of service forms, by using either the form provided by the CCB or an alternative form that contains all of the information required in the CCB-provided form. Further, the proposed rule clarifies that evidence presented by the parties in a default proceeding is not limited to any materials exchanged in discovery, because a default proceeding may occur before discovery has concluded or even begun. Finally, the rule contains updated cross references and additional references to ''counterclaims,'' where earlier references only addressed ''claims.''

Conclusion

The Office finds good cause to issue these regulations as final interim rules, with an immediate effective date.[16] We believe that notice and public comment are unnecessary for certain insignificant changes, including typographical errors, updated cross references, and clarifications. Although the rules governing district court referrals, proof of service forms, default proceedings, and law student representation could benefit from public comment, notice

[10] *Id.* at 20710 (''[T]he Office encourages the participation of law students in CCB proceedings more broadly. For example, under the supervision of a licensed attorney, a law student may assist with drafting a pleading or other document to be filed before the CCB. In addition, a licensed lawyer representing a party before the CCB may have a law student intern or clerk attend any part of the party's proceeding.'').

[11] 17 U.S.C. 1509(b).

[12] *Id.* (''A proceeding before the Copyright Claims Board under this chapter shall qualify as an alternative dispute resolution process under section 651 of title 28 for purposes of referral of eligible cases by district courts of the United States upon the consent of the parties.'')

[13] *Id.*

[14] *See* 17 U.S.C. 1506(f)(3)(C), 1510(a)(1); 37 CFR 233.

[15] 37 CFR 222.5(b)(3)(i).

[16] 5 U.S.C. 553(b)(B), (d)(3).

and public comment in advance of this rule's publication is impracticable, as the CCB has already begun operations and started accepting claims. For example, the CCB must have rules in place for district court referrals, as one such referral has already been made to the CCB. Accordingly, the Office is publishing this rule as final without first issuing a notice of proposed rulemaking, but seeks public comment regarding the subjects of this interim rule for any future amendments deemed appropriate.

List of Subjects in 37 CFR Parts 222, 224, 225, 233, 234, and 235

Claims, Copyright.

Interim Regulations

For the reasons stated in the preamble, the U.S. Copyright Office amends 37 CFR parts 222, 224, 225, 233, 234, and 235 as follows:

PART 222—PROCEEDINGS

■ 1. The authority citation for part 222 continues to read as follows:

Authority: 17 U.S.C. 702, 1510.

■ 2. Amend § 222.5 by revising the last sentence of paragraph (b)(3)(i) to read as follows:

§ 222.5 Service; waiver of service; filing.

* * * * *

(b) * * *

(3) * * *

(i) * * * A claimant shall submit a completed proof of service document, using either the proof of service form available on the Board's website or a substantively similar proof of service document that provides all of the information required by the Board's form.

* * * * *

■ 3. Amend § 222.9 as follows:

■ a. Revise paragraphs (c)(2)(i) through (iii);

■ b. Add paragraph (c)(2)(iv);

■ c. Revise paragraphs (c)(3)(iii)(E) and (G);

■ d. Revise paragraphs (c)(4)(iii) introductory text, (c)(4)(iii)(C), (c)(6), (d) introductory text, and (d)(5);

■ e. Redesignate paragraph (d)(6) as paragraph (d)(7); and

■ f. Add new paragraph (d)(6).

The revisions and additions read as follows:

§ 222.9 Counterclaim.

* * * * *

(c) * * *

(2) * * *

(i) A counterclaim for infringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106;

(ii) A counterclaim for a declaration of noninfringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106;

(iii) A counterclaim under 17 U.S.C. 512(f) for misrepresentation in connection with—

(A) A notification of claimed infringement; or

(B) A counter notification seeking to replace removed or disabled material; or

(iv) A counterclaim that arises under an agreement pertaining to the same transaction or occurrence that is the subject of a claim of infringement brought under 17 U.S.C. 1504(c)(1), if the agreement could affect the relief awarded to the claimant;

(3) * * *

(iii) * * *

(E) Whether the alleged infringement has continued through the date the counterclaim was filed, or, if it has not, when the alleged infringement ceased;

* * * * *

(G) If the infringement counterclaim is asserted against an online service provider as defined in 17 U.S.C. 512(k)(1)(B) for infringement by reason of the storage of or referral or linking to infringing material that may be subject to the limitations on liability set forth in 17 U.S.C. 512(b), (c), or (d), an affirmance that the counterclaimant has previously notified the service provider of the claimed infringement in accordance with 17 U.S.C. 512(b)(2)(E), (c)(3), or (d)(3), as applicable, and that the service provider failed to remove or disable access to the material expeditiously upon the provision of such notice;

(4) * * *

(iii) A brief description of the activity at issue in the counterclaim, including, to the extent known to the counterclaimant:

* * * * *

(C) Whether the activities at issue have continued through the date the counterclaim was filed;

* * * * *

(6) For infringement counterclaims, misrepresentation counterclaims, and counterclaims arising under an agreement as provided in paragraph (a)(2), a statement describing the harm suffered by the counterclaimant(s) as a result of the alleged activity and the relief sought by the counterclaimant(s). Such statement may, but is not required to, include an estimate of any monetary relief sought;

* * * * *

(d) *Additional matter.* The counterclaimant may also include, as attachments to or files that accompany the counterclaim, any material the counterclaimant believes plays a significant role in setting forth the facts of the counterclaim, such as:

* * * * *

(5) A copy of the counter notification that is alleged to contain the misrepresentation;

(6) A copy of any agreements related to the counterclaim, including any amendments or revisions; and

* * * * *

■ 4. Amend § 222.10 as follows:

■ a. Revise paragraphs (b)(3) through (5) and (c)(5);

■ b. Redesignate paragraph (c)(6) as paragraph (c)(7); and

■ c. Add new paragraph (c)(6).

The revisions and addition are as follows:

§ 222.10 Response to counterclaim.

* * * * *

(b) * * *

(3) For infringement counterclaims, as set forth in 37 CFR 222.9(c)(2)(i), a statement describing in detail the dispute regarding the alleged infringement, including any defenses as well as any reason why the counterclaim respondent believes there was no infringement of copyright, including any exceptions and limitations as set forth in 17 U.S.C. 107 through 122 that are implicated;

(4) For declaration of noninfringement counterclaims, as set forth in 37 CFR 222.9(c)(2)(ii), a statement describing in detail the dispute regarding the alleged infringement, including any defenses as well as reasons why the counterclaim respondent believes there is infringement of copyright;

(5) For misrepresentation counterclaims, as set forth in 37 CFR 222.9(c)(2)(iii), a statement describing in detail the dispute regarding the alleged misrepresentation, including any defenses as well as an explanation of why the counterclaim respondent believes the identified words do not constitute misrepresentation; and

* * * * *

(c) * * *

(5) A copy of the counter notification that is alleged to contain the misrepresentation;

(6) A copy of any agreements related to the counterclaim, including any amendments or revisions; and

* * * * *

■ 5. Amend § 222.15 by revising paragraph (b)(1)(ii) to read as follows

§ 222.15 Written testimony on the merits.

* * * * *

(b) * * *

(1) * * *

(ii) Except when testimony is submitted pursuant to § 227.2 or § 227.4

of this subchapter, direct or response documentary evidence shall only include documents that were served on opposing parties pursuant to the scheduling order, absent leave from the Board, which shall be granted only for good cause.

* * * * *

PART 224—REVIEW OF CLAIMS BY OFFICERS AND ATTORNEYS

■ 6. The authority citation for part 224 continues to read as follows:

Authority: 17 U.S.C. 702, 1510.

■ 7. Amend § 224.2 by revising the first sentence of paragraph (c) to read as follows:

§ 224.2 Dismissal for unsuitability.

* * * * *

(c) At any time, any party who believes that a claim or counterclaim is unsuitable for determination by the Board may file a request providing the basis for such belief. * * *

PART 225—DISCOVERY

■ 8. The authority citation for part 225 continues to read as follows:

Authority: 17 U.S.C. 702, 1510.

■ 9. Amend § 225.2 by revising paragraphs (a)(2) and (3), (b) introductory text, (b)(1) and (11), (c) introductory text, (c)(6), (d) introductory text, (e) introductory text, and (e)(1) to read as follows:

§ 225.2 Standard interrogatories.

(a) * * *

(2) The identity of any other individuals who may have material information related to the claims, counterclaims, or defenses, including contact information for the individuals, if known;

(3) Any agreement or other relationship between the parties relevant to the claim or counterclaim;

* * * * *

(b) *For a party asserting infringement.* In addition to paragraph (a) of this section, the *standard interrogatories* for a party asserting an infringement claim or counterclaim or responding to a claim or counterclaim for non-infringement shall consist of information pertaining to:

(1) The allegedly infringed work's copyright registration, to the extent such information differs from or adds to information provided in the claim or counterclaim;

* * * * *

(11) Any attempts by the party to cause the infringement to be ceased or mitigated prior to bringing the claim or counterclaim.

(c) *For a party asserting non-infringement.* In addition to the information in paragraph (a) of this section, the *standard interrogatories* for a party responding to an infringement claim or counterclaim or asserting a claim or counterclaim for non-infringement shall consist of information pertaining to:

* * * * *

(6) All defenses to infringement asserted by the party and a detailed basis for those defenses. Defenses listed in timely answers and timely updated answers to the *standard interrogatories* shall be considered by the Board and will not require an amendment of the response to an infringement claim or counterclaim or an amendment of a claim or counterclaim for non-infringement;

* * * * *

(d) *For a party asserting misrepresentation.* In addition to the information in paragraph (a) of this section, the *standard interrogatories* for a party asserting a claim or counterclaim of misrepresentation under 17 U.S.C. 512(f) shall consist of information pertaining to:

* * * * *

(e) *For a party responding to misrepresentation claims or counterclaims.* In addition to the information in paragraph (a) of this section, the *standard interrogatories* for a party responding to a claim or counterclaim of misrepresentation under 17 U.S.C. 512(f) shall consist of information pertaining to:

(1) All defenses asserted to the misrepresentation claim or counterclaim and the basis for those assertions. Defenses listed in timely answers and timely updated answers to the *standard interrogatories* shall be considered by the Board and will not require an amendment of the response;

* * * * *

■ 10. Amend § 225.3 by revising paragraphs (a)(1) through (3), (b) introductory text, (b)(7), (c) introductory text, (d) introductory text, and (e) introductory text to read as follows:

§ 225.3 Standard requests for the production of documents.

(a) * * *

(1) All documents the party is likely to use in support of its claims, counterclaims, or defenses;

(2) All other documents of which the party is reasonably aware that conflict with the party's claims, counterclaims, or defenses in the proceeding; and

(3) All documents referred to in, or that were used in preparing, any of the party's responses to *standard interrogatories.*

(b) *For a party asserting infringement.* In addition to the information in paragraph (a) of this section, the *standard requests for the production of documents* for a party asserting an infringement claim or counterclaim or responding to a claim or counterclaim for non-infringement shall include copies of:

* * * * *

(7) Documents showing attempts by the party to cause the cessation or mitigation of infringement prior to bringing the claim or counterclaim.

(c) *For a party asserting non-infringement.* In addition to the information in paragraph (a) of this section, the *standard requests for the production of documents* for a party responding to an infringement claim or counterclaim or asserting a claim or counterclaim for non-infringement shall include copies of:

* * * * *

(d) *For a party asserting misrepresentation.* In addition to the information in paragraph (a) of this section, the *standard requests for the production of documents* for a party asserting a claim or counterclaim of misrepresentation under 17 U.S.C. 512(f) shall include copies of:

* * * * *

(e) *For a party responding to misrepresentation claims or counterclaims.* In addition to the information in paragraph (a) of this section, the *standard requests for the production of documents* for a party responding to a claim or counterclaim of misrepresentation under 17 U.S.C. 512(f) shall include copies of:

* * * * *

PART 233—LIMITATION ON PROCEEDINGS

■ 11. The authority citation for part 233 continues to read as follows:

Authority: 17 U.S.C. 702, 1510.

■ 12. Amend § 233.2 by adding paragraph (d) to read as follows:

§ 233.2 Limitation on proceedings.

* * * * *

(d) *District court referrals.* In calculating the number of proceedings that have been filed by a claimant, sole practitioner, legal counsel, or a law firm under this section, claims referred by district courts will not be considered.

PART 234—LAW STUDENT REPRESENTATIVES

■ 13. The authority citation for part 234 continues to read as follows:

Authority: 17 U.S.C. 702, 1510.

■ 14. Amend § 234.1 by revising paragraphs (a)(1), (c), and (f) to read as follows:

§ 234.1 Law student representatives.

(a) * * *

(1) *State law compliance.* Any law student who is affiliated with a law school clinic or a *pro bono* legal services organization with a connection to the student's law school is qualified under applicable laws governing representation by law students of parties in legal proceedings, and meets the other requirements of this section may appear before the Copyright Claims Board (Board). Applicable laws are the laws, court rules, or bar rules of the jurisdiction that allow, authorize, or permit the student to practice law in conjunction with a law school clinic or *pro bono* legal services organization with a connection to the student's law school.

* * * * *

(c) *Attorney supervision.* A law student who appears on behalf of a party in a proceeding before the Board shall be supervised by an attorney who is qualified under applicable state law governing representation by law students, as specified in paragraph (a) of this section. In supervising the law student, the attorney shall adhere to any rules regarding participant conduct.

* * * * *

(f) *Notice of appearance.* In any proceeding in which a law student appears on behalf of a party, a notice of appearance shall be filed identifying the law student representative, the supervising attorney, and the law school clinic or pro bono legal organization with which they are affiliated, unless already identified in the party's claim, counterclaim, or response.

* * * * *

■ 15. Part 235, consisting of § 235.1, is added to read as follows:

PART 235—DISTRICT COURT REFERRALS

Authority: 17 U.S.C. 702, 1509(b), 1510.

§ 235.1 District court referrals.

(a) *General.* This section governs circumstances where a district court has referred a proceeding to the Board under 17 U.S.C. 1509(b) and 28 U.S.C. 651, as well as the Copyright Claims Board's (Board's) authority to suspend or amend certain regulations under this chapter after such a referral.

(b) *Amending or suspending procedural rules.* (1) When a district court has referred a proceeding to the Board, the Board may suspend or amend rules governing its proceedings in the interests of justice, fairness, and efficiency, except as identified in paragraph (b)(2) of this section.

(2) The Board may not suspend or amend the rules governing the following parts and sections: 37 CFR parts 227 through 232 and 234, 37 CFR 220.1 through 220.4, 37 CFR 222.1, 37 CFR 223.3, or 37 CFR 224.2.

(c) *Requirement to contact the Board.* When a district court has referred a proceeding to the Board, the parties to that case should email the Board (at *asktheboard@ccb.gov*) as soon as possible for further instructions. The Board will issue the parties instructions on how to continue proceedings before the Board, including how to open a docket in eCCB without following the standard process to file a claim and pay a fee.

(d) *Fees.* When a district court has referred a proceeding to the Board, a claimant is not required to pay the Board a fee to initiate a claim under 37 CFR 201.3(g)(1).

Dated: December 2, 2022.

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2022–27027 Filed 12–16–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R01–OAR–2021–0443; FRL–8778–02–R1]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants: New Hampshire; 111(d)/129 Revised State Plan for Existing Large and Small Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Clean Air Act (CAA) state plan revision for existing large and small municipal waste combustors (MWCs) submitted by the New Hampshire Department of Environmental Services (NHDES) on October 1, 2018. The revised state plan incorporates fuel quality standards and test methods for large MWC facilities that combust processed wood residue (PWR) from construction and demolition (C&D) debris.

DATES: This rule is effective on January 18, 2023. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 18, 2023.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2021–0443. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Jessica Kilpatrick, Air Permits, Toxics, and Indoor Programs Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 05–2, Boston, MA 02109–0287. Telephone: 617–918–1652. Fax: 617–918–0652 Email: *kilpatrick.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

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I. Background and Purpose
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I. Background and Purpose

EPA published a Notice of Proposed Rulemaking (NPRM) on September 3, 2021 (86 FR 49501) for the State of New Hampshire. The NPRM proposed approval of the CAA sections 111(d)/129 revised state plan for existing large

and small MWCs submitted by NHDES on October 1, 2018.

NHDES amended its state plan Env-A 3300, Municipal Waste Combustion, for existing large and small MWCs on August 11, 2018 to remove a ban on PWR combustion in response to a change in the state statute ''Devices Contributing to Air Pollution'' RSA 125–C:10. The change in the state statute allows combustion of no more than 10,000 tons per year of PWR at any MWC from November 15 through April 15 from facilities that process C&D debris in a manner no less stringent than the requirements at 40 CFR 241.4(a)(5), Non-Waste Determinations for Specific Non-Hazardous Secondary Materials When Used as a Fuel. The change also required NHDES to adopt rules regarding fuel quality standards and test methods in accordance with RSA 125–C:6, XIV-a, before any such combustion shall occur; therefore NHDES revised its associated state plan.

Accordingly, the state plan revision incorporates fuel quality standards and test methods for MWCs that combust PWR. It includes changes to Env-A 3300, defining PWR as C&D wood processed from C&D debris according to best management practices as described in 40 CFR 241.4(a)(5). The revision includes a new part Env-A 3308 ''Additional Requirements for Combusting PWR'' applicable to large MWCs with sections outlining applicability, operating practices, PWR fuel quality, fuel supplier requirements, independent third-party inspections, analysis of composite samples, reporting and recordkeeping for large MWCs combusting PWR, and cessation and resumption of receipt of PWR from a supplier.

Subsequently, NHDES submitted the revised state plan to EPA on October 1, 2018. EPA evaluated the state plan for consistency with the CAA, EPA guidelines, and policy. We determined that NHDES's state plan implements and enforces provisions at least as protective as the Federal emission guidelines applicable to existing large and small MWCs. NHDES demonstrates legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards, and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available. Other specific requirements for the revised state plan and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

II. Response to Comments

EPA received three comments in response to the NPRM during the public comment period, all of which were adverse in nature to EPA's proposed approval of the action.

The first comment received suggested that EPA consider a different route of waste disposal to minimize negative impacts to the environment and human health. This comment is outside the scope of EPA's proposed action in that EPA is approving New Hampshire's state plan which meets EPA's promulgated guidelines for MWCs. In addition, the comment did not explain, or provide a legal basis for, how the proposed action should differ in any way within the context of EPA's guidelines; nor did the comment specifically mention the proposed action. Finally, the commenter did state that New Hampshire's rule would have a positive impact on the environment and public health. CAA section 129 and its implementing regulations impose requirements on sources that combust solid waste. If a state submits a revised state plan to EPA for solid waste combustion facilities that contains all applicable requirements, EPA does not have the authority to deny the revised state plan in favor of another means or method for solid waste disposal. As such, this comment has not resulted in a change to our original proposal and EPA is finalizing the action as proposed.

Two comments stated that there will be adverse health impacts to surrounding communities as a direct result from combusting PWR (referred to as C&D or C&D waste) at Wheelabrator Concord Company L.P. (Wheelabrator), currently the only facility subject to the New Hampshire state plan. Both commenters directly cited the NPRM's Background Section III entitled, ''Why does EPA regulate air emissions from MWCs?,'' which states that municipal solid waste (MSW) combustion emits various air pollutants such as particulate matter, hydrogen chloride, dioxins/furans, heavy metals (lead, cadmium, and mercury), sulfur dioxide, and nitrogen oxides. One of these comments cited public health resources and records of public concern, including testimony and background on: (1) New Hampshire House Bill 358; [1] (2) petitioners' ''Response to EPA Order, Wheelabrator Concord Company, Permit No. TV–0032;'' (3) the Seventh Biennial Report from the International Joint Commission on the Great Lakes Water Quality Agreement of 1978; (4) EPA's Summary of Executive Order 13045—''Protection of Children From Environmental Health Risks and Safety Risks;'' (5) a presentation by the New Hampshire Division of Public Health Services entitled ''Childhood Lead Poisoning in NH—The Economic Burden;'' and (6) the State of New Hampshire Air Quality 2017 Executive Edition report. The comment emphasized the toxicity of lead exposure, its impact on children, and the resulting economic burden.

However, neither of these comments mention EPA's 2016 final rulemaking, entitled ''Additions to List of Categorical Non-Waste Fuels,'' which requires processed C&D wood to remove contaminants in accordance with best management practices at 40 CFR 241.4(a)(5). Sorting by trained operators excludes or removes the following materials from the final product fuel: non-wood materials (*e.g.,* polyvinyl chloride and other plastics, drywall, concrete, aggregates, dirt, and asbestos), and wood treated with creosote, pentachlorophenol, chromated copper arsenate, or other copper, chromium, or arsenical preservatives. In addition, C&D processing facilities that use positive sorting (where operators pick out desirable wood from co-mingled debris) or that receive and process positive sorted C&D wood, must either exclude all painted wood (to the extent that only de minimis quantities inherent to processing limitations may remain) from the final product fuel, use X-ray Fluorescence to ensure that painted wood included in the final product fuel does not contain lead-based paint, or require documentation that a building has been tested for and does not include lead-based paint before accepting demolition debris from that building. C&D processing facilities that use negative sorting (where operators remove contaminated or otherwise undesirable materials from co-mingled debris) must remove fines (*i.e.,* small-sized particles that may contain relatively high concentrations of lead and other contaminants) and either remove all painted wood (to the extent that only de minimis quantities inherent to processing limitations may remain), use X-ray Fluorescence to detect and remove lead-painted wood, or require documentation that a building has been tested for and does not include lead-based paint before accepting demolition debris from that building. *See* 81 FR 6694.

[1] Relative to combustion of wood residue at municipal waste combustors. NH HB 358, 2019 Regular Session. (N.H. 2019). *https://legiscan.com/NH/bill/HB358/2019.*

When processed in these manners and complying with all the requirements of the categorical non-waste determination, C&D wood is no longer considered a solid waste. In the case of New Hampshire, PWR, which equates to C&D wood processed in accordance with the best management practices at 40 CFR 241.4(a)(5), is still required to be combusted within MWCs and its combustion emissions are regulated via the state plan.

EPA's 2016 final rulemaking action for ''Additions to List of Categorical Non-Waste Fuels'' explains that preceding its proposed rulemaking, EPA analyzed more than 220 samples of processed C&D wood from nine combustion facilities. The Agency compared the contaminant levels found in the processed C&D wood to the contaminant levels found in clean wood and biomass materials. Contaminants most likely to be present in C&D debris (arsenic, chromium, lead, mercury, chlorine, fluorine, sulfur, formaldehyde, and pentachlorophenol) were all comparable or lower in the C&D wood than in clean wood and biomass materials, with the exceptions of lead, pentachlorophenol, and formaldehyde. *See* 81 FR 6697–6698, Table 1. As a result, EPA promulgated additional controls to adequately reduce lead and pentachlorophenol at 40 CFR 241.4(a)(5) (*e.g.,* positive and negative sorting requirements to exclude painted woods from the combustible stream of material).[2]

Additionally, the commenters misunderstood EPA's own language in the NPRM for this rulemaking. Section III, entitled ''Why does EPA regulate air emissions from MWCs?'', refers to why EPA regulates air emissions from MWCs. Unregulated combustion of MSW emits various air pollutants that are detrimental to human health and the environment. Therefore, EPA regulates these emissions under CAA sections 111(d) and 129 to protect human health and the environment. C&D wood itself is identified as not being a solid waste when used as fuel in a combustion unit and processed in the required manner at 40 CFR part 241.4, Non-Waste Determinations for Specific Non-Hazardous Secondary Materials When Used as a Fuel. A non-waste, non-hazardous secondary material cannot be identified as MSW, and the emitted pollutants from combustion of these materials are also not identical to and should not be characterized as such.

Regarding the regulatory process, a commenter stated that New Hampshire citizens ''face barriers to public participation and access to resolution on issues that are provided for the public'' at the state level. NHDES provided adequate opportunities for public participation throughout the state rulemaking process to amend New Hampshire Code of Administrative Rules Env-A 3300 Municipal Waste Combustion. The rulemaking process initiated in 2016 was introduced by the NHDES Air Resources Division and the Solid Waste Division at multiple stakeholder meetings open to the public with opportunities for comment. The proposed rule was presented to the NHDES Air Resources Council on September 11, 2017, and the final rule was posted for notice on May 14, 2018, with a public hearing on June 15, 2018, and a comment period ending on June 29, 2018.

There also were comments regarding the administration of the NHDES Air Resources Division, specifically concerning Title V operating permit shields, reporting of emissions, nitrogen oxides (NO_X) emissions compliance, and a general lack of monitoring. EPA finds these comments to be outside the scope of this rulemaking and thus no response to those comments is necessary.

Moreover, suggestions from both commenters to reject the state plan and continue the ban on PWR combustion are outside the scope of EPA Region 1's jurisdiction and this particular rulemaking. NHDES has the authority to incorporate standards in its state plan that are at least as protective as Federal emission guidelines. The state plan revision does not contradict or contravene 40 CFR part 60, subpart Cb, Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before September 20, 1994, or 40 CFR part 241, subpart B, Identification of Non-Hazardous Secondary Materials that are Solid Wastes when Used as Fuels or Ingredients in Combustion Units.

Finally, a comment stated that our proposed approval of New Hampshire's regulation is inconsistent with the requirements of Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. EPA disagrees with the commenter. This executive order was issued by President William J. Clinton in 1997. The order applies to *economically significant rules under Executive Order 12866* that concern an environmental health or safety risk that EPA has reason to believe may disproportionately affect children. Environmental health risks or safety risks refer to risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breathe, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to). When promulgating a rule of this description, EPA must evaluate the effects of the planned regulation on children and explain why the regulation is preferable to potentially effective and reasonably feasible alternative. Executive Order 12866 defines ''significant regulatory action'' as one which generally is any regulatory action that is likely to result in a rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

EPA has determined that the criteria above have not been met for this rulemaking.

III. Final Action

EPA is approving NHDES's CAA sections 111(d)/129 revised state plan for existing large and small MWCs.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the State of New Hampshire amended Code of Administrative Rules Env-A 3300, Municipal Waste Combustion, with a state effective date of September 27, 2018. The amended Env-A 3300 applies to Large and Small Municipal Waste

[2] For the pollutant formaldehyde, EPA concluded that proposed rules published in 2013, Formaldehyde; Third-Party Certification Framework for the Formaldehyde Standards for Composite Wood Products (78 FR 34796) and Formaldehyde Emissions Standards for Composite Wood Products (78 FR 34820), would limit levels of formaldehyde in wood products and thus reduce the levels of formaldehyde in processed C&D wood. These rules were finalized by EPA on December 12, 2016, at 40 CFR 770 to implement the Formaldehyde Standards for Composite Wood Products Act, which added Title VI to the Toxic Substances Control Act (TSCA).

Combustors to comply with section 111(d) and section 129 of the Clean Air Act. EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). This incorporation by reference is approved by the Director of the Federal Register upon the effective date of this final rule, and the plan is federally enforceable under the CAA as of the effective date of this final rulemaking.

V. Statutory and Executive Order Reviews

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

Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 17, 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* 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Incorporation by reference, Industrial facilities, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: December 6, 2022.

David Cash,

Regional Administrator, EPA Region 1.

Part 62 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart EE—New Hampshire

■ 2. Section § 62.7325 is amended by adding paragraphs (b)(4)(iii) and (d) to read as follows:

§ 62.7325 Identification of plan.

* * * * *

(b) * * *

(4) * * *

(iii) Revised State Plan for Large and Small Municipal Waste Combustors was submitted on October 1, 2018. Revisions included amendments to New Hampshire Code of Administrative Rules Env-A 3300 Municipal Waste Combustion in response to a change in the state statute relative to ''Devices Contributing to Air Pollution'' enacted by the New Hampshire General Court in 2016 and codified at New Hampshire Revised Statutes Annotated 125–C:10–c, that incorporates fuel quality standards and test methods for Large MWCs that combust processed wood residue from construction and demolition debris. The plan includes revisions to the regulatory provisions cited in paragraph (d) of this section, which EPA incorporates by reference.

* * * * *

(d) *Incorporation by reference.* (1) The material incorporated by reference in this section was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies at the EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square-Suite 100, Boston, MA, 617–918–1111 and from the source listed in paragraph (d)(2) of this section. You may also inspect the materials 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.*

(2) State of New Hampshire, New Hampshire Department of Environmental Services, 29 Hazen Drive, Concord, NH 03302, 603–271–

3503, *https://www.des.nh.gov/rules-and-regulatory/administrative-rules.*

(i) New Hampshire Code of Administrative Rules Env-A 3300, ''Municipal Waste Combustion,'' effective September 27, 2018.

(ii) [Reserved]

[FR Doc. 2022–27134 Filed 12–16–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–118; RM–11924; DA 22–1234; FR ID 118038]

Television Broadcasting Services Helena, Montana

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On March 10, 2022, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* (*NPRM*) in response to a petition for rulemaking filed by Scripps Broadcasting Holdings LLC (Petitioner), the licensee of KTVH–DT (Station), channel 12, Helena, Montana, requesting the substitution of channel 31 for channel 12 at Helena in the Table of TV Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to substitute channel 31 for channel 12 at Helena.

DATES: Effective December 16, 2022.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *JoyceBernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule was published at 87 FR 16159 on March 22, 2022. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel 31. No other comments were filed. The *Report and Order* substitutes channel 31 for channel 12 at Helena, Montana. According to the Petitioner, it has received many complaints from viewers unable to receive a reliable signal on VHF channel 12, and the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service. The Engineering Statement provided with the Petition confirmed that the proposed channel 31 contour would continue to reach virtually all of the population within the Station's current service area and fully cover the city of Helena. An analysis using the Commission's *TVStudy* software tool indicates that KTVH–DT's move from channel 12 to channel 31 is predicted to create an area where 2,168 persons are predicted to lose service. The loss area, however, is partially overlapped by the noise limited contour of other NBC affiliated stations and reduces the number of people who are predicted to lose NBC network service to 226 persons. Once those other sources of NBC programming are factored into the loss analysis, the new loss area that would be created by the proposed channel substitution would contain only 226 persons, which is a level of service loss the Commission considers to be *de minimis.* Concurrence from the Canadian government was required and has been obtained.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 22–118; RM–11924; DA 22–1234, adopted November 29, 2022, and released November 29, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICE

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

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(j), amend the Table of Allotments, under Montana, by revising the entry for Helena to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
Montana	
* * * * *	
Helena	29, 31
* * * * *	

[FR Doc. 2022–27260 Filed 12–16–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 220720–0159]

RIN 0648–BL63

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Greater Amberjack Management Measures

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: NMFS issues this temporary rule to extend the expiration date of emergency measures implemented for the greater amberjack stock in the Gulf of Mexico (Gulf). As requested by the Gulf of Mexico Fishery Management Council (Council), NMFS published a temporary rule for emergency action on July 25, 2022, to modify the greater amberjack recreational fixed closed season for the 2022–2023 fishing year in the Gulf exclusive economic zone (EEZ) to be August 1 through 31, 2022, and November 1, 2022, through July 31, 2023 (open September 1, 2022, through

October 31, 2022). The purpose of this rulemaking is to extend the measures implemented in the emergency action while the Council develops long term management measures to reduce overfishing of Gulf greater amberjack.

DATES: The expiration date for the temporary rule published at 87 FR 44027, July 25, 2022 is extended from January 23, 2023, through July 28, 2023, unless NMFS publishes a superseding document in the **Federal Register**.

ADDRESSES: Electronic copies of the documents in support of this temporary rule may be obtained from the NMFS Southeast Regional Office website at: *https://www.fisheries.noaa.gov/action/emergency-action-modification-greater-amberjack-recreational-fixed-closed-season.*

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, telephone: 727–824–5305 or email: *Kelli.ODonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act provides the legal authority for the promulgation of emergency regulations under section 305(c) (16 U.S.C. 1855(c)).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to end overfishing and rebuild overfished stocks. At its June 2022 meeting, in accordance with Section 305(c)(3) of the Magnuson-Stevens Act, the Council requested NMFS promulgate an emergency regulation to protect the greater amberjack resource, due to recently discovered circumstances which present serious conservation issues to the stock. NMFS promulgated that rule in July 2022, effective through January 23, 2023, and is now extending the effective date for an additional 186 days (87 FR 44027, July 25, 2022).

All weights provided in this temporary rule, unless otherwise noted, are given in round weight.

Current Status of Greater Amberjack Stock and Council Emergency Action Request

Greater amberjack has been under a rebuilding plan since 2003. In October 2020, a Southeast Data, Assessment, and Review (SEDAR) assessment (SEDAR 70) was completed and showed that the greater amberjack stock is still overfished and has been undergoing overfishing almost continuously since 1980. NMFS informed the Council of these determinations in a letter dated April 7, 2021. The Magnuson-Stevens Act specifies that the Council must prepare and implement measures to end overfishing and rebuild the stock within 2 years of this notification. At its October 2022 meeting, the Council approved Amendment 54 to the FMP, which would significantly reduce the greater amberjack catch limits consistent with the results of SEDAR 70 and the recommendation of the Council's Scientific and Statistical Committee (SSC).

The Council's SSC reviewed the SEDAR 70 results at its January 2021 meeting, accepted the assessment as the best scientific information available, and agreed that greater amberjack was still overfished and undergoing overfishing. The SSC provided recommendations for a reduced overfishing limit (OFL) and acceptable biological catch (ABC) so that the stock could rebuild by 2027, the current target rebuilding time. The Council discussed the SSC's recommendations at its January 2021 meeting and instructed staff to begin work on an FMP amendment (Amendment 54) to update the rebuilding plan and end overfishing of greater amberjack.

The SSC provided updated catch level recommendations in November 2021. When the Council reviewed more detailed alternative catch level projections in April 2022, it became clear that because the recreational fishing year occurs over 2 calendar years and the reduced catch levels in Amendment 54 would not be implemented until the later part of the fishing year, more immediate action might be necessary to constrain recreational harvest while the Council works to finalize the new catch limits. Therefore, in June 2022, the Council reviewed options to modify the recreational fixed closed season to help constrain harvest to the reduced catch levels under consideration in Amendment 54.

At that time, recreational harvest of greater amberjack was closed from November through April and June through July. This means that harvest was allowed during the months of August through October, and the month of May. The Council requested that NMFS modify the fixed closed season for the 2022–2023 fishing year so that harvest is allowed only during the months of September and October in 2022. NMFS received the Council request in a letter dated July 5, 2022, and implemented the emergency regulation on July 25, 2022, consistent with the Council request (87 FR 44027, July 25, 2022). That rule is currently effective through January 23, 2023. NMFS is extending the effective date of that rule to prohibit harvest in May 2023 as requested by the Council and to allow NMFS sufficient time to review, and if approved, implement Amendment 54.

Comments and Responses

Section 305(c)(3)(B) of the Magnuson-Stevens Act allows NMFS to extend the effective date of an emergency regulation if the public is provided the opportunity to comment on the emergency regulation and the Council is actively preparing a plan amendment to address the emergency on a permanent basis. NMFS solicited public comment in the July 25, 2022, temporary rule, noting that the rule could be extended for an additional 186 days.

NMFS received five comments on the temporary rule for emergency action for Gulf greater amberjack. In general, the comments were opposed to the change to the recreational fishing season implemented in the temporary rule and stated other measures could be taken or that no action was necessary. Some comments suggested changes to management measures that are outside the scope of the temporary rule, such as implementing a tag program for non-residents, and are therefore not addressed further. Specific comments related to the emergency action are grouped by topic and summarized below, followed by NMFS' respective responses.

Comment 1: The data used to project greater amberjack recreational landings are flawed.

Response: NMFS used the best scientific information available to project when Gulf greater amberjack landings would reach the reduced recreational catch limits under consideration in Amendment 54. NMFS determined that recreational landings in recent years would be the best predictor of future landings. Therefore, NMFS used recreational landings data for the 2019–2020, 2020–2021, and 2021–2022

fishing years that were generated by the Marine Recreational Information Program, the Texas Parks and Wildlife Department Creel Survey, the Louisiana Creel survey, and the NMFS Headboat Survey. The NMFS Southeast Fisheries Science Center and Southeast Regional Office reviewed these data and made applicable adjustments to recreational landings projections consistent with established protocols. To predict recreational landings in August, September, and October of 2022, NMFS used a 3-year average of monthly landings from 2019, 2020, and 2021. To predict recreational landings for May of 2023, NMFS used a 2-year average of 2020 and 2021 May landings because the recreational sector was closed in May 2019 and the May 2022 recreational landings were not available at the time of the analysis. The Council used these projections to determine how best to modify the recreational fixed closed and chose the alternative that provides the greatest number of days without exceeding the expected reduced recreational catch limit.

Comment 2: NMFS should implement a one fish per vessel recreational limit instead of changing the greater amberjack recreational fixed closed season.

Response: The Council did not request, and NMFS did not consider implementing a recreational vessel limit to reduce recreational landings. Previous analysis conducted for Amendment 35 to the FMP indicated that a one fish per vessel limit would not have achieved the harvest reduction needed to avoid an overage of the recreational catch limits proposed under Amendment 54. Further, when recreational vessel limits, in general, have been considered in the past there has been little support from the Council and constituents. Therefore, NMFS implemented the revised recreational fixed closed season, which was supported by the Council and projected to meet the needed harvest reductions.

Comment 3: The greater amberjack commercial sector should be closed in addition to the recreational sector.

Response: NMFS disagrees that it is necessary to close the commercial sector. The commercial sector already has a fixed closed season in effect for the months of March, April, and May, and has projected that harvest by the commercial sector in January and February of 2023 would not exceed any of the proposed reduced commercial catch limits under consideration in Amendment 54. Further, the commercial sector has a trip limit reduction after 75 percent of the commercial quota is caught. Therefore, the Council did not include in its emergency action request to NMFS actions related to the greater amberjack commercial sector.

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Act, 16 U.S.C. 1855(c). The Assistant Administrator (AA) for Fisheries, NOAA has determined that this emergency action is consistent with the Magnuson-Stevens Act, the FMP, and other applicable law. This action is being taken pursuant to the emergency provisions of the Magnuson-Stevens Act and is exempt from Office of Management and Budget review.

This temporary rule for emergency action contains no information collection requirements under the Paperwork Reduction Act of 1995.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

NMFS prepared an environmental assessment (EA) for the emergency measures contained in the July 25, 2022 (87 FR 44027, July 25, 2022) temporary rule. The EA analyzed the impacts of recreational seasonal closure, which includes the impacts related to extending the emergency measures. Therefore, the impacts of extending the emergency measures through this temporary rule have already been considered. Electronic copies of the EA are available from NMFS (see **ADDRESSES**).

This temporary rule extension responds to the best scientific information available. The AA finds good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures for this temporary rule extension are unnecessary and contrary the public interest. Such procedures are unnecessary because NMFS already published the temporary rule on July 25, 2022, and requested public comment on the emergency regulation, including the potential extension. NMFS responds to the public comments in this temporary rule, which extends the same emergency regulation for an additional 186 days. An opportunity for additional public comment would be contrary to the public interest because it would result in this temporary rule not being effective before the current emergency regulations expire, which would prevent NMFS from implementing this extension. Without the extension of the emergency regulation, recreational fishing would be allowed in May 2023 and could result in a significant overage of the greater amberjack recreational ACL approved by the Council in Amendment 54. This possible overharvest could result in a complete closure of greater amberjack to the recreational sector in the 2023–2024 fishing year and could negatively impact the revised rebuilding plan developed in Amendment 54.

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

Dated: December 13, 2022.

Andrew James Strelcheck,

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

[FR Doc. 2022–27353 Filed 12–16–22; 8:45 am]

BILLING CODE 3510–22–P

Federal Register
Vol. 87, No. 242
Monday, December 19, 2022

Proposed Rules

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.

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

[Docket No. R–1786]

RIN 7100–AG44

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

RIN 3064–AF86

Resolution-Related Resource Requirements for Large Banking Organizations; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On October 24, 2022, the Board of Governors of the Federal Reserve System (Board) and the Federal Deposit Insurance Corporation (FDIC) (together, the agencies) published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) to solicit public input regarding whether an extra layer of loss-absorbing capacity could improve optionality in resolving a large banking organization or its insured depository institution, and the costs and benefits of such a requirement. The agencies have determined that an extension of the comment period until January 23, 2023, is appropriate, and are therefore making that extension.

DATES: The comment period for the advance notice of proposed rulemaking published October 24, 2022, at 87 FR 64170, is extended. Comments must be received by January 23, 2023.

ADDRESSES: You may submit comments by any of the methods identified in the ANPR.

FOR FURTHER INFORMATION CONTACT:

Board: Molly Mahar, Senior Associate Director, (202) 973–7360; Catherine Tilford, Deputy Associate Director, (202) 452–5240; Lesley Chao, Lead Financial Institution Policy Analyst, Policy Development, (202) 974–7063, Division of Supervision and Regulation; Charles Gray, Deputy General Counsel, (202) 510–3484, Reena Sahni, Associate General Counsel, (202) 452–2026, Jay Schwarz, Assistant General Counsel, (202) 452–2970, Andrew Hartlage, Senior Counsel, (202) 452–6483, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

FDIC: Andrew J. Felton, Deputy Director, (202) 898–3691; Ryan P. Tetrick, Deputy Director, (202) 898–7028; Jenny G. Traille, Associate Director, (202) 898–3608; Julia E. Paris, Senior Cross-Border Specialist, (202) 898–3821; Division of Complex Institution Supervision and Resolution; R. Penfield Starke, Assistant General Counsel, (202) 898–8501, *rstarke@fdic.gov;* David N. Wall, Assistant General Counsel, (202) 898–6575, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On October 24, 2022, the agencies published in the **Federal Register** an ANPR to solicit public input regarding whether an extra layer of loss-absorbing capacity could improve optionality in resolving a large banking organization or its insured depository institution, and the costs and benefits of such a requirement.[1] This may, among other things, address financial stability by limiting contagion risk through the reduction in the likelihood of uninsured depositors suffering loss, and keep various resolution options open for the FDIC to resolve a firm in a way that minimizes the long term risk to financial stability and preserves optionality. The agencies are seeking comment on all aspects of the ANPR from all interested parties and also request commenters to identify other issues that the Board and FDIC should consider.

The ANPR stated that the comment period would close on December 23, 2022. The agencies have received a request to extend the comment period. An extension of the comment period would provide additional opportunity for the public to prepare comments to address questions posed by the agencies. Therefore, the agencies are extending the end of the comment period for the ANPR from December 23, 2022, to January 23, 2022.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority.

Ann E. Misback,

Secretary of the Board, Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on December 14, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–27475 Filed 12–16–22; 8:45 am]

BILLING CODE 6714–01–P; 6210–01–P

[1] 87 FR 64170 (October 24, 2022).

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

RIN 3245–AH28

National Defense Authorization Act of 2020, Credit for Lower Tier Subcontracting and Other Amendments

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is proposing to amend its regulations to implement provisions of the National Defense Authorization Act for Fiscal Year 2020. The proposal would permit a prime contractor with an individual subcontracting plan to apply credit for subcontracts to small businesses at lower tiers toward its subcontracting goals. To do so, the prime contractor would incorporate the lower-tier subcontracting performance into its subcontracting-plan goals.

DATES: Comments must be received on or before February 17, 2023.

ADDRESSES: You may submit comments, identified by RIN 3245–AH28, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Roman Ivey, Program Analyst, Office of Policy Planning and

Liaison, Small Business Administration, at *Roman.Ivey@sba.gov.*

SBA will post all comments on *https://www.regulations.gov.* If you wish to submit confidential business information (CBI), as defined in the User Notice at *https://www.regulations.gov,* please submit the information to Roman Ivey, Small Business Administration at *Roman.Ivey@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination on whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Roman Ivey, Program Analyst, Office of Policy Planning and Liaison, Small Business Administration, at *Roman.Ivey@sba.gov,* (202) 401–1420. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Background

The SBA proposes to revise its Small Business Subcontracting Plan regulations in 13 CFR 125.3 in response to changes made in section 870 of the National Defense Authorization Act (NDAA) of 2020, Public Law 116–92. Specifically, section 870 made changes to section 8(d) of the Small Business Act, 15 U.S.C. 637(d), regarding the requirements that apply to a Federal contractor seeking to obtain subcontracting credit on certain types of Federal contracts.

Most Federal contracts require the awardee to enter into a subcontracting plan that includes percentage goals for using small businesses and subcategories of small businesses. Subcontracting plans apply to Federal contracts exceeding $750,000 ($1.5 million for construction), unless the awardee is a small business, the contract does not offer subcontracting opportunities, or the contract will be performed entirely outside the United States and its outlying areas. Prior to SBA's Final Rule published on December 23, 2016, 81 FR 94246, SBA's regulations permitted a prime contractor to count only its first-tier subcontracts toward the goals in its subcontracting plan. The December 2016 Final Rule, however, mandated that prime contractors receive credit for lower-tier subcontracts under certain circumstances. Section 870 changed the criteria for receiving credit for lower-tier subcontracting, and this proposed rule implements those statutory changes.

Section 870 made three changes to subcontracting plan requirements. First, a prime contractor may elect, in some instances, to receive credit toward its subcontracting plan for lower-tier subcontracts to small businesses. Second, agencies are prohibited from setting tier-specific goals for prime contractors that use lower-tier credit. Third, subcontracting plans are required to recite the records that contractors will maintain to substantiate lower-tier credit.

These changes require SBA to change some of the provisions set forth in the December 2016 Final Rule. Most importantly, relying on statutory language, the December 2016 Final Rule made it mandatory for contractors with individual subcontracting plans to take credit for lower-tier subcontract. Section 870, by contrast, removes the mandate and states that prime contractors ''may elect to receive credit'' for either first-tier subcontracts on their own, or subcontracts at any tier. Accordingly, SBA proposes to change the prior mandate to an election.

Additionally, the December 2016 Final Rule allowed for contractors to receive credit for subcontracts awarded to small businesses below the first tier, but only where the contractor had two sets of subcontracting goals. A contractor was required to have a goal for small-business subcontracting at the first tier, and an additional goal for small business subcontracting at lower tiers. Section 870 prohibits agencies from setting tier-specific goals for prime contractors that use lower-tier credit. To address that statutory change, SBA proposes that prime contractors will only have one set of subcontracting goals. Prime contractors may elect under certain circumstances to have subcontracts awarded to small businesses at lower tiers counted toward this goal.

This proposed rule also implements the requirement from section 870 that contractors include in their subcontracting plans a statement of the types of records they will maintain to substantiate subcontracting credit.

Section 870 further created a new subparagraph 8(d)(16)(B) in the Small Business Act, 15 U.S.C. 637(d)(16)(B), to require agencies to collect, report, and review data on compliance with subcontracting plans. The new subparagraph duplicates existing statutory language in section 8(d)(7) of the Small Business Act, 15 U.S.C. 637(d)(7), and has already been implemented in SBA's regulations at 13 CFR 125.6(f)(8). Therefore, no regulatory changes are necessary to implement new subparagraph 8(d)(16)(B).

Section-By-Section Analysis

13 CFR 125.3(a)

SBA proposes to change the threshold for a required subcontracting plan to $750,000. This would make the threshold consistent with the Federal Acquisition Regulation (FAR) subpart 19.7 and with other references to the threshold in section 125.3.

13 CFR 125.3(a)(1)(i)(C)

SBA proposes to revise the language of 13 CFR 125.3(a)(1)(i)(C) to incorporate the two statutory changes from section 870 that differ from SBA's December 2016 rule: creating an election for using lower-tier subcontracting credit and prohibiting more than one set of goals.

First, the proposed language makes lower-tier subcontracting credit discretionary, in some circumstances. A prime contractor may elect to take credit for lower-tier subcontractors only when the subcontracting plan applies to a single contract with one Federal agency. In other situations—*i.e.,* where the plan applies to more than one contract or to a single contract with more than one agency—section 870 prohibits the prime contractor from receiving credit for lower-tier subcontracting. Commercial plans and comprehensive subcontracting plans therefore are not eligible to use lower-tier subcontracting credit. They must instead rely solely on first-tier subcontracts. Additionally, governmentwide contracts and multi-agency contracts are not permitted to use lower-tier subcontracting credit.

Where a prime contractor elects to include lower-tier subcontracts towards its goal, the prime contractor would be credited with lower-tier subcontracts that are reported under lower-tier subcontracting plans. This proposed rule does not require prime contractors to submit additional reports. Prime contractors would be required to report only their first-tier awards. Lower-tier subcontracting awards are required to be reported by the prime contractor's lower-tier subcontractors in accordance with their subcontracting plans and SBA's regulations. SBA believes that only having each subcontract at any tier reported once will help prevent duplicative counting of the same awards.

Second, the proposed rule eliminates the prior provision that a prime contractor would have two sets of subcontracting goals—one for the first tier and one for lower tiers. Instead, SBA proposes that the prime contractor would incorporate the subcontracting-plan goals of its lower-tier

subcontractors into its individual-subcontracting-plan goals.

13 CFR 125.3(c)

SBA proposes to create a new 13 CFR 125.3(c)(1)(xii) to incorporate the new recordkeeping requirements on contractors with subcontracting plans. Specifically, prime contractors are required to maintain records of the procedures used to substantiate the credit they elect to receive for lower-tier subcontracting under 13 CFR 125.3(a)(1)(i)(C).

Compliance with Executive Orders 12866, 13563, 12988, 13175, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Congressional Review Act (5 U.S.C. 801–808).

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866.

Executive Order 13563

SBA previously solicited comments from the public on a proposal to provide credit for lower-tier subcontracting. 80 FR 60300. Those comments were considered for this rulemaking. Additionally, as part of its ongoing efforts to engage stakeholders in the development of its regulations, SBA has solicited comments and suggestions from procuring agencies on how to best implement section 870. SBA has incorporated those comments and suggestions to the extent feasible. SBA intends to incorporate, where feasible, public input into the final rule.

Executive Order 12988

For purposes of Executive Order 12988, SBA has drafted this proposed rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of that Executive Order, to minimize litigation, eliminate ambiguity, and reduce burden. This rule has no preemptive or retroactive effect.

Executive Order 13175

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

Executive Order 13132

For the purpose of Executive Order 13132, SBA has determined that this proposed rule 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 layers of government. Therefore, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Ch. 35

This rule, if adopted in final form, would update the requirements for small business subcontracting plans to add a requirement for prime contractors to include in their subcontracting plans a statement of the types of records they will maintain to substantiate subcontracting credit. The FAR rule implementing this requirement will account for this information collection, and clearance for the information collection will be obtained by the FAR Council.

Regulatory Flexibility Act, 5 U.S.C. 601–612

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The RFA defines ''small entity'' to include ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' This proposed rule concerns various aspects of SBA's contracting programs. As such, the rule relates to small business concerns, but would not affect ''small organizations'' or ''small governmental jurisdictions'' because those programs generally apply only to ''business concerns'' as defined by SBA regulations, in other words, to small businesses organized for profit. ''Small organizations'' or ''small governmental jurisdictions'' are non-profits or governmental entities and do not generally qualify as ''business concerns'' within the meaning of SBA's regulations.

There are approximately 350,000 concerns registered as small business concerns in the System for Award Management (SAM) that could potentially be impacted by the implementation of section 870. However, SBA cannot say with any certainty how many will be impacted because we do not know how many of these concerns participate in government contracting as subcontractors. A firm is required to register in SAM in order to participate in Federal contracting as a prime contractor, but not for purposes of subcontracting. Therefore, there are no known compliance or other costs imposed by the proposed rule on small business concerns.

In sum, the proposed amendments would not have a disparate impact on small businesses and would increase their opportunities to participate in Federal Government contracting as subcontractors without imposing any additional costs. For the reasons discussed, SBA certifies that this proposed rule would not have a significant economic impact on a substantial number of small business concerns.

Congressional Review Act (5 U.S.C. 801–808)

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a ''major 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. SBA will submit a report containing this rulemaking 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 rulemaking has been reviewed and determined by OMB not to be a ''major rule'' under 5 U.S.C. 804(2).

List of Subjects in 13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Small business subcontracting.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 125 as follows:

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 1. The authority citation for 13 CFR part 125 is revised to read as follows:

Authority: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657f, 657q, 657r, and 657s; 38 U.S.C. 501 and 8127.

■ 2. Amend § 125.3 by:

■ a. Removing the number ''$650,000'' in paragraph (a) introductory text and adding in its place the number ''$750,000'';

■ b. Revising paragraph (a)(1)(i)(C);

■ c. Removing the word ''and'' after the semicolon at the end of paragraph (c)(1)(xi);

■ d. Redesignating paragraph (c)(1)(xii) as paragraph (c)(1)(xiii); and

■ e. Adding a new paragraph (c)(1)(xii).

The revision and addition read as follows:

§ 125.3 What types of subcontracting assistance are available to small businesses?

(a) * * *

(1) * * *

(i) * * *

(C) Where the subcontracting goals pertain only to a single contract with one Federal agency, the contractor may elect to receive credit for small business concerns performing as first-tier subcontractors or subcontractors at any tier pursuant to the subcontracting plans required under paragraph (c) of this section in an amount equal to the dollar value of work awarded to such small business concerns. The election must be recorded in the subcontracting plan. If the contractor elects to receive credit for subcontractors at any tier, the following requirements apply:

(1) The prime contractor must incorporate the subcontracting-plan goals of their lower-tier subcontractors in its individual-subcontracting-plan goals.

(2) To receive credit for their subcontracting, lower-tier subcontractors must have their own individual subcontracting plans.

(3) The prime contractor and any subcontractor with a subcontracting plan are responsible for reporting on subcontracting performance under their contracts or subcontracts at their first tier. This reporting method applies to both individual subcontracting reports and summary subcontracting reports.

(4) The prime contractor's performance under its individual subcontracting plan will be calculated by aggregating the prime contractor's first-tier subcontracting achievements with the achievements of the prime contractor's lower-tier subcontractors that have flow-down subcontracting plans.

(5) If the subcontracting goals pertain to more than one contract with one or more Federal agencies, or to one contract with more than one Federal agency, the prime contractor shall only receive credit for first tier subcontractors that are small business concerns. This restriction applies to all commercial plans, all comprehensive subcontracting plans with the Department of Defense, governmentwide contracts, and multi-agency contracts.

* * * * *

(c) * * *

(1) * * *

(xii) The prime contractor must provide a written statement of the types of records it will maintain to demonstrate that procedures have been adopted to substantiate the subcontracting credit that the prime contractor elects under paragraph (a)(1)(i)(C) of this section; and

* * * * *

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2022–27213 Filed 12–16–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1585; Project Identifier MCAI–2022–00892–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2021–03–11, which applies to all Dassault Aviation Model FALCON 2000 airplanes. AD 2021–03–11 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2021–03–11, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require the actions in AD 2021–03–11 and would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 2, 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–2022–1585; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2022–1585.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *Tom.Rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1585; Project Identifier MCAI–2022–00892–T'' at the beginning of your comments. The most helpful comments reference a specific portion of

the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *Tom.Rodriguez@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–03–11, Amendment 39–21414 (86 FR 11116, February 24, 2021) (AD 2021–03–11), for all Dassault Aviation Model FALCON 2000 airplanes. AD 2021–03–11 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2020–0113, dated May 20, 2020 (EASA AD 2020–0113) (which corresponds to FAA AD 2021–03–11), to correct an unsafe condition.

AD 2021–03–11 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2021–03–11 to address reduced controllability of the airplane. AD 2021–03–11 specifies that accomplishing the revision required by that AD terminates all requirements of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05) for Model FALCON 2000 airplanes only. This proposed AD would therefore continue allowing that termination.

Actions Since AD 2021–03–11 Was Issued

Since the FAA issued AD 2021–03–11, EASA superseded AD 2020–0113 and issued EASA AD 2022–0135, dated July 6, 2022 (EASA AD 2022–0135) (referred to after this as the MCAI), for all Dassault Aviation Model FALCON 2000 airplanes. The MCAI states that new or more restrictive airworthiness limitations have been developed.

The FAA is proposing this AD to address reduced controllability of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1585.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0135. This service information specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This proposed AD would also require EASA AD 2020–0113, which the Director of the Federal Register approved for incorporation by reference as of March 31, 2021 (86 FR 11116, February 24, 2021).

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2021–03–11. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2022–0135 already described, as proposed for incorporation by reference. Any differences with EASA AD 2022–0135 are identified as exceptions in the regulatory text of this AD.

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

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to retain the IBR of EASA AD 2020–0113 and incorporate EASA AD 2022–0135 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0135 and EASA AD 2020–0113 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 2022–0135 or EASA AD 2020–0113 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 2022–0135 or EASA AD 2020–0113. Service information required by EASA AD 2022–0135 and EASA AD 2020–0113 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1585 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary

source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 168 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2021–03–11 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the agency has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2021–03–11, Amendment 39–21414 (86 FR 11116, February 24, 2021); and

■ b. Adding the following new AD:

Dassault Aviation: Docket No. FAA–2022–1585; Project Identifier MCAI–2022–00892–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 2, 2023.

(b) Affected ADs

(1) This AD replaces AD 2021–03–11, Amendment 39–21414 (86 FR 11116, February 24, 2021) (AD 2021–03–11).

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05).

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 2000 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

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

(f) Compliance

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

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

This paragraph restates the requirements of paragraph (i) of AD 2021–03–11, with no changes. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0113, dated May 20, 2020 (EASA AD 2020–0113). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2020–0113, With No Changes

This paragraph restates the exceptions specified in paragraph (j) of AD 2021–03–11, with no changes.

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0113 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2020–0113 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA

AD 2020–0113 within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2020–0113 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2020–0113, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0113 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0113 does not apply to this AD.

(i) Retained No Alternative Actions or Intervals With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2021–03–11, with a new exception. Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0113.

(j) New Maintenance or Inspection Program Revision

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0135, dated July 6, 2022 (EASA AD 2022–0135). Accomplishing the maintenance or inspection program revision required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2022–0135

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0135 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0135 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0135 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0135, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0135 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2022–0135 does not apply to this AD.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0135.

(m) Terminating Action for AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates the requirements of paragraph (g) of AD 2010–26–05 for Model FALCON 2000 airplanes only.

(n) Additional AD Provisions

The following provisions also apply to this AD:

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

Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(o) Additional Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *Tom.Rodriguez@faa.gov.*

(p) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2022–0135, dated July 6, 2022.

(ii) [Reserved]

(4) The following service information was approved for IBR on March 31, 2021 (86 FR 11116, February 24, 2021).

(i) European Union Aviation Safety Agency (EASA) AD 2020–0113, dated May 20, 2020.

(ii) [Reserved]

(5) For EASA ADs 2022–0135 and 2020–0113, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find these EASA ADs on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on December 12, 2022.

Christina Underwood,

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

[FR Doc. 2022–27298 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1645; Project Identifier MCAI–2022–00734–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–21–10, which applies to certain Airbus SAS Model A318, A320, and A321 series airplanes; and Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, and –153N airplanes; and AD 2022–07–08, which applies to all Airbus SAS Model A318, A319, A320 and A321 series airplanes. AD 2020–21–10 and AD 2022–07–08 require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2020–21–10 and AD 2022–07–08, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require the actions in AD 2020–21–10 and AD 2022–07–08 and require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 2, 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–2022–1645; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2022–1645.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Hyeyoon Jang, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 817–222–5584; email *hye.yoon.jang@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–2022–1645; Project Identifier MCAI–2022–00734–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hyeyoon Jang, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 817–222–5584; email *hye.yoon.jang@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2020–21–10, Amendment 39–21283 (85 FR 65190, October 15, 2020) (AD 2020–21–10), for certain Airbus SAS Model A318, A320, and A321 series airplanes, and Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, and –153N airplanes. AD 2020–21–10 was prompted by EASA AD 2020–0034, dated February 25, 2020 (EASA AD 2020–0034).

AD 2020–21–10 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2020–21–10 to address the risks associated with the effects of aging on airplane systems. Such effects could change system characteristics, leading to an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane.

The FAA also issued AD 2022–07–08, Amendment 39–21996 (87 FR 22117, April 14, 2022) (AD 2022–07–08), for all Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2022–07–08 was prompted by EASA AD 2020–0270, dated December 7, 2020 (EASA AD 2020–0270).

AD 2022–07–08 requires inspections of certain trimmable horizontal stabilizer actuators (THSAs) and replacement if necessary, and revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2022–07–08 to address premature wear of the carbon friction disks on the no-back brake (NBB) of the THSA, which could lead to reduced braking efficiency in certain load conditions, and, in conjunction with the inability of the power gear train to keep the ball screw in its last commanded position, could result in uncommanded movements of the trimmable horizontal stabilizer and loss of control of the airplane. AD 2022–07–08 specifies that accomplishing the revision required by that AD terminates certain requirements of AD 2020–21–10. This proposed AD would continue to allow that termination.

Actions Since AD 2020–21–10 and AD 2022–07–08 Were Issued

Since the FAA issued AD 2020–21–10 and AD 2022–07–08, EASA issued AD 2022–0102, dated June 8, 2022 (EASA AD 2022–0102) (referred to after this as the MCAI), for 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. Model A320–215 airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states that new or more restrictive airworthiness limitations have been developed. EASA AD 2022–0102 superseded EASA AD 2020–0034, dated February 25, 2020, and EASA AD 2020–0270, dated December 7, 2020 (which

correspond to FAA AD 2020–21–10 and AD 2022–07–08, respectively).

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after February 18, 2022 must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

EASA AD 2022–0102 specifies that the revised airworthiness limitations section (ALS) document contains new tasks 274000–00002–1–E and 274000–00003–1–E, which cover the inspections, corrective actions, and reporting previously required by EASA AD 2017–0237, dated December 4, 2017 (which corresponds to FAA AD 2018–23–02, Amendment 39–19488 (83 FR 59278, November 23, 2018) (AD 2018–23–02)). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (n) of this proposed AD would therefore terminate the requirements of paragraphs (g) through (k) of AD 2018–23–02 for Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes only.

AD 2022–07–08 requires that task 274000–00004–1–E (NBB carbon disk replacement) be accomplished using only certain Airbus service information (''SB A320–27–1242''), and does not allow using certain other vendor [UTC] service information (''VSB 47145–27–17''). The FAA has determined that this restriction is no longer necessary, as both service bulletins provide adequate instructions for accomplishing the replacement.

The FAA is proposing this AD to address the risks associated with the effects of aging on airplane systems. Such effects could change system characteristics. The unsafe condition, if not addressed, could result in an increased potential for failure of certain life-limited parts, and reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1645.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0102, dated June 8, 2022. This service information specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2020–21–10 and AD 2022–07–08. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2022–0102 already described, as proposed for IBR. Any differences with EASA AD 2022–0102 are identified as exceptions in the regulatory text of this AD.

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

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to retain the IBR of EASA AD 2020–0034 and EASA AD 2020–0270 and incorporate EASA AD 2022–0102 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA ADs 2020–0034, 2020–0270, and 2022–0102 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 ADs 2020–0034, 2020–0270, or 2022–0102 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 ADs 2020–0034, 2020–0270, or 2022–0102. Service information required by EASA ADs 2020–0034, 2020–0270, and 2022–0102 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1645 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative actions or intervals.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,864 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2020–21–10 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA estimates the total cost per operator for the retained actions from AD 2022–07–08 to be $7,650 (90 work-hours × $85 per work-hour).

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) AD 2020–21–10, Amendment 39–21283 (85 FR 65190, October 15, 2020); and AD 2022–07–08, Amendment 39–21996 (87 FR 22117, April 14, 2022); and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2022–1645; Project Identifier MCAI–2022–00734–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 2, 2023.

(b) Affected ADs

(1) This AD replaces AD 2020–21–10, Amendment 39–21283 (85 FR 65190, October 15, 2020) (AD 2020–21–10).

(2) This AD replaces AD 2022–07–08, Amendment 39–21996 (87 FR 22117, April 14, 2022) (AD 2022–07–08).

(3) This AD affects AD 2018–23–02, Amendment 39–19488 (83 FR 59278, November 23, 2018) (AD 2018–23–02).

(c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before February 18, 2022.

(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 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that additional new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the risks associated with the effects of aging on airplane systems. Such effects could change system characteristics. The unsafe condition, if not addressed, could result in an increased potential for failure of certain life-limited parts, and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program From AD 2020–21–10, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2020–21–10, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 7, 2019, except for Model A319–171N airplanes: Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0034, dated February 25, 2020 (EASA AD 2020–0034). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (n) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2020–0034, With No Changes

This paragraph restates the exceptions specified in paragraph (j) of AD 2020–21–20, with no changes.

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0034 do not apply to this AD.

(2) Paragraph (3) of EASA 2020–0034 specifies revising "the AMP" within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the "tasks and associated thresholds and intervals" specified in paragraph (3) of EASA 2020–0034 within 90 days after November 19, 2020 (the effective date AD 2020–21–10).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2020–0034 is at the applicable "associated thresholds" specified in paragraph (3) of EASA AD 2020–0034, or within 90 days after November 19, 2020 (the effective date AD 2020–21–10), whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0034 do not apply to this AD.

(5) The "Remarks" section of EASA AD 2020–0034 does not apply to this AD.

(i) Retained Provisions for Alternative Actions and Intervals From AD 2020–21–10, With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2020–21–10, with a new exception. Except as required by paragraph (n) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0034.

(j) Retained Revision of the Existing Maintenance or Inspection Program From AD 2022–07–08, With No Changes

This paragraph restates the requirements of paragraph (l) of AD 2022–07–08, with no changes. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (n) of this AD terminates the requirements of this paragraph.

(1) For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before October 5, 2020, except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0270, dated December 7, 2020 (EASA AD 2020–0270).

(2) For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after October 5, 2020, revise the existing maintenance or inspection program, as applicable, to incorporate the provision specified in paragraph (k)(7) of this AD.

(k) Retained Exceptions to EASA AD 2020–0270, With No Changes

This paragraph restates the exceptions specified in paragraph (m) of AD 2022–07–08, with no changes.

(1) Where EASA AD 2020–0270 refers to its effective date, this AD requires using May 19, 2022 (the effective date AD 2022–07–08).

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0270 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2020–0270 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after May 19, 2022 (the effective date AD 2022–07–08).

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2020–0270 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (3) of EASA AD 2020–0270, or within 90 days after May 19, 2022 (the effective date AD 2022–07–08), whichever occurs later.

(5) The provisions specified in paragraph (4) of EASA AD 2020–0270 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2020–0270 does not apply to this AD.

(7) For all airplanes identified in paragraph (c) of this AD: Where the Note for Item 274000–00004–1–E of Section 4–1 in the service information referenced in EASA AD 2020–0270 specifies ''NBB carbon disc replacement'' instructions, for this AD, replace the text ''NBB carbon disc replacement can be accomplished in accordance with SB A320–27–1242 or VSB 47145–27–17,'' with ''NBB carbon disk replacement must be accomplished in accordance with SB A320–27–1242.''

(l) Retained Provisions for Alternative Actions and Intervals AD 2022–07–08, With a New Exception

This paragraph restates the requirements of paragraph (n) of AD 2022–07–08, with a new exception. Except as required by paragraph (n) of this AD, after the maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0270.

(m) Retained Terminating Action for Certain Requirements of Paragraph (g) of This AD

This paragraph restates the terminating action specified in paragraph (o) of AD 2022–07–08. Accomplishing the actions required by paragraph (j) of this AD terminates the airworthiness limitations section (ALS) limitation task 274000–00004–1–E for the trimmable horizontal stabilizer actuator (THSA), as required by paragraph (g) of this AD.

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

Except as specified in paragraph (o) of this AD, comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022–0102, dated June 8, 2022 (EASA AD 2022–0102). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraphs (g) and (j) of this AD.

(o) Exceptions to EASA AD 2022–0102

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0102 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0102 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0102 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0102, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0102 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2022–0102 does not apply to this AD.

(p) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (n) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0102.

(q) New Terminating Action for Certain Requirements of AD 2018–23–02.

Accomplishing the revision of the existing maintenance or inspection program required by paragraph (n) of this AD terminates the requirements of paragraphs (g) through (k) of AD 2018–23–02 for Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes only.

(r) 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 (s) of this AD.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2020–21–10 are approved as AMOCs for the corresponding provisions of EASA AD 2022–0102 that are required by paragraph (n) of this AD.

(iii) AMOCs approved previously for AD 2022–07–08 are approved as AMOCs for the corresponding provisions of EASA AD 2022–0102 that are required by paragraph (n) of this AD.

(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.

(s) Additional Information

For more information about this AD, contact Hyeyoon Jang, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 817–222–5584; email *hye.yoon.jang@faa.gov.*

(t) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(3) The following service information was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2022–0102, dated June 8, 2022.

(ii) [Reserved]

(4) The following service information was approved for IBR on May 19, 2022 (87 FR 22117, April 14, 2022).

(i) European Union Aviation Safety Agency (EASA) AD 2020–0270, dated December 7, 2020.

(ii) [Reserved]

(5) The following service information was approved for IBR on November 19, 2020 (85 FR 65190, October 15, 2020).

(i) European Union Aviation Safety Agency (EASA) AD 2020–0034, dated February 25, 2020.

(ii) [Reserved]

(6) For EASA ADs 2022–0102, 2020–0270, and 2020–0034, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find these EASA ADs on the EASA website at *ad.easa.europa.eu.*

(7) 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.

(8) 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 December 12, 2022.

Christina Underwood,

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

[FR Doc. 2022–27297 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1561; Airspace Docket No. 22–ANM–58]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Escalante Municipal Airport, Escalante, UT

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Escalante Municipal Airport, UT. This action will support the airport's transition from visual flight rules (VFR) to instrument flight rules (IFR) at the airport.

DATES: Comments must be received on or before February 2, 2023.

ADDRESSES: Send comments on this proposal to the U.S. DOT, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527 or (202) 366–9826. You must identify ''FAA Docket No. FAA–2022–1561; Airspace Docket No. 22–ANM–58,'' at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications.* For further information, you can contact the 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 establish Class E airspace at Escalante Municipal Airport, UT, to support IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–1561; Airspace Docket No. 22–ANM–58.'' The postcard will be date/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 notice may be changed in light of the comments received. 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 the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11G, 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

Class E airspace beginning at 700 feet above the surface should be established at Escalante Municipal Airport, UT, to contain departing aircraft until reaching 1,200 feet above the surface, arriving aircraft below 1,500 feet above the surface, and circling maneuvers southwest of the airport. The proposed airspace is described in relation to the airport reference point and is approximately 7.5 nautical miles by 13.5 nautical miles in size, which will fully contain IFR operations at the airport.

The Class E5 airspace designation is published in paragraph 6005 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 designation listed in this document will be published subsequently in FAA Order JO 7400.11, which 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; 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 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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM UT E5 Escalante, UT [New]

Escalante Municipal Airport, UT
(Lat. 37°44′43″ N, long. 111°34′13″ W)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at a point on the 124° bearing, 7.3 miles from the airport, then to the 154° bearing at 7.2 miles, then to the 245° bearing at 5.6 miles, then to the 281° bearing at 8.6 miles, then to the 335° bearing at 7 miles, thence to the point of beginning.

Issued in Des Moines, Washington, on December 9, 2022.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–27340 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1562; Airspace Docket No. 21–ANM–46]

RIN 2120–AA66

Proposed Modification of Class E Airspace; Torrington Municipal Airport, Torrington, WY

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class E airspace extending upward from 700 feet above the surface at Torrington Municipal Airport, WY. This proposal would remove a northwest extension and a procedure turn airspace area to the east, add a southeast extension, and reduce the Class E airspace encircling the airport. This action will ensure the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before February 2, 2023.

ADDRESSES: Send comments on this proposal to the U.S. DOT, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527 or (202) 366–9826. You must identify ''FAA Docket No. FAA–2022–1562; Airspace Docket No. 21–ANM–46,'' at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications.* For further information, you can contact the 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 Class E airspace at Torrington Municipal Airport, WY, to support IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–1562; Airspace Docket No. 21–ANM–46.'' The postcard will be date/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 notice may be changed in light of the comments received. 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 the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11G, 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

This action proposes to modify the Class E airspace beginning at 700 feet above the surface at Torrington Municipal Airport. The current Class E airspace encircling the airport with a 7.7-mile radius is excessive. The Class E airspace encircling the airport should be reduced to a 7.5-mile radius, which will more appropriately contain departing IFR operations until they reach 1,200 feet above the surface.

The existing Class E airspace beginning at 700 feet above the surface contains an area east of the airport intended for procedure turn maneuvers that is no longer needed and should be removed. Class E airspace beginning at 700 feet above the surface is designed to accommodate arriving IFR operations below 1,500 feet above the surface. No terrain penetrates to within 1,500 feet of arriving aircraft conducting a procedure turn, and the procedure is fully contained in the existing Denver Class E domestic en route airspace.

The Class E airspace beginning at 700 feet above the ground southeast of the airport needs an extension 1.4 miles either side of the 116° bearing from the airport, extending 9.6 miles southeast of the airport to accommodate arriving IFR operations below 1,500 feet above the surface.

The existing northwest extension to the Class E airspace beginning at 700 feet above the ground should be removed as it is no longer needed. The proposed 7.5-mile radius Class E airspace encircling the airport more appropriately contains arrival IFR operations from the northwest.

The Class E5 airspace designation is published in paragraph 6005 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 designation listed in this document will be published subsequently in FAA Order JO 7400.11, which 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; 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 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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM WY E5 Torrington, WY [Amended]

Torrington Municipal Airport, WY
(Lat. 42°03′52″ N, long. 104°09′10″ W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the airport, and that airspace 1.4 miles each side of the 116° bearing extending from the 7.5-mile radius to 9.6 miles southeast of the airport.

Issued in Des Moines, Washington, on December 9, 2022.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–27341 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

POSTAL REGULATORY COMMISSION

39 CFR part 3050

[Docket No. RM2023–2; Order No. 6369]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Seven). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 27, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Proposal Seven
III. Notice and Comment
IV. Ordering Paragraphs

I. Introduction

On December 12, 2022, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal Seven. Proposal Seven proposes the accounting treatment for the forgiveness of the Postal Service's retirement health benefit (RHB) prefunding liabilities effected by the Postal Service Reform Act (PSRA).[2]

II. Proposal Seven

Procedural history. Prior to the Commission's issuance of Order No. 6363, the subject matter of Proposal Seven was raised in multiple filings with the Commission.

First, the Postal Service filed a letter to the Commission reflecting how it intended, for accounting purposes, to treat the PSRA's removal of certain accrued but unpaid retiree health benefits.[3] As detailed in Order No. 6363, the Postal Service provided its rationale as to why the accounting treatment was appropriate.[4] Second, the Commission responded to the Postal Service's Letter endorsing most of the substance of the accounting treatment, and noting that the accounting treatment did not require a rulemaking to change an accepted analytical principle pursuant to 39 CFR part 3050.[5] Third, a group of mailers filed a letter with the Commission asking for reconsideration of the Commission's endorsement of the Postal Service's proposed accounting treatment, and requesting the Commission evaluate the Postal Service's proposed accounting treatment pursuant to 39 CFR part 3050.[6] Fourth, the Greeting Card Association (GCA), one of the 13 mailer organizations that was a signatory to the Mailers' Letter, also filed a petition with the Commission to initiate a rulemaking.[7] Fifth, the Postal Service responded in opposition to the Petition.[8] Sixth, a significant portion of the signatories to the Mailers' Letter filed a reply reiterating its position.[9]

The Commission ultimately issued Order No. 6363, granting, in part, the relief sought in the Mailers' Letter and Reconsideration Petition. Order No. 6363. The Commission withdrew its prior letter endorsing the proposed accounting treatment, because its acceptance of the Postal Service's proposed accounting treatment was based upon the expectation that the ''gain'' would not be treated as a revenue or cost. *Id.* at 7. However, in the Postal Service's submission of its FY 2022 Form 10–K report, trial balance, and statement of revenue and expenses, the $56.9 billion adjustment is treated as a non-cash benefit to net income, and included within Cost Segment 18. *Id.* at 7–8. The Commission noted that in its most recent Annual Compliance Determination, other accrued costs identified in Cost Segment 18 were treated as institutional costs, and therefore the accepted methodology was to treat Cost Segment 18 costs as institutional costs. *Id.* at 8–9. The Commission further noted that without a change in analytical principle, the Commission could not endorse the Postal Service's proposed accounting treatment. *Id.* at 9. The Commission directed the Postal Service, should it wish to proceed with its plans to exclude the PSRA-forgiven defaulted accruals, it must file a petition seeking to change an accepted analytical principle pursuant to 39 CFR 3050.11. *Id.* at 10–11.

The Commission also explained in Order No. 6363 that the arguments in the Mailers' Letter concerning the Postal Service's proposed accounting treatment of the repealed amortization and normal cost payments were in line with accepted analytical principles.[10]

Background. Proposal Seven is a proposal to segregate the reversal of the PSRA forgiveness of RHB prefunding

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[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Seven), December 12, 2022 (Petition).

[2] Petition, Proposal Seven at 1. *See* Docket No. RM2023–1, Order Granting Petition, in Part, for Reconsideration, December 9, 2022, at 1–2 (Order No. 6363).

[3] Letter to Erica A. Barker, Secretary and Chief Administrative Officer, August 12, 2022 (Postal Service Letter), available at *https://www.prc.gov/docs/122/122469/Lttr%20re%20PSRA%20Effects%20ACR%20CRA.pdf.*

[4] Order No. 6363 at 3. The Postal Service also noted that current year normal cost and amortization payments, as a result of the PSRA, would be treated consistently between the General Ledger and the Cost and Revenue Analysis (CRA). *Id.*

[5] Letter from Erica A. Barker, Secretary and Chief Administrative Officer to Richard T. Cooper, Managing Counsel, Corporate and Postal Business Law, October 7, 2022, available at *https://www.prc.gov/docs/123/123096/Response%20Letter.pdf.* The Commission noted that the statutory change represented a unique and non-recurring event, and the accounting treatment appeared reasonable, opining that incorporating the $56.9 billion adjustment in the CRA would create nonsensical results and potentially interfere with the regulatory purposes of the CRA. Order No. 6363 at 4.

[6] Letter to Erica A Barker, Secretary and Chief Administrative Officer, October 13, 2022, styled Motion for Reconsideration of Response to the Postal Service's Proposed Changes to Accepted Analytical Principles (Mailers' Letter), available at *https://www.prc.gov/docs/123/123145/Motion%20for%20Reconsideration_PropChange_.pdf.*

[7] Docket No. RM2023–1, Petition for Reconsideration and Initiation of Proceeding, November 4, 2022 (Reconsideration Petition). The Petition incorporated arguments from the Mailers' Letter. Petition, Proposal Seven at 2–3.

[8] Docket No. RM2023–1, Response of the United States Postal Service in Opposition to GCA Petition for Reconsideration and Initiation of Proceeding, November 10, 2022. The Postal Service responded to the Mailers' Letter noting that procedurally a 39 CFR part 3050 proceeding is not required where the Commission was interpreting its own regulations, and substantively that its proposed accounting treatment was reasonable and supported. *Id.* at 6–9.

[9] Docket No. RM2023–1, Reply of Mailer Associations to Response of the United States Postal Service in Opposition to GCA Petition for Reconsideration and Initiation of Proceeding, November 21, 2022.

[10] *Id.* at 10. Any deviation from the accepted analytical principle (accounting for amortization and normal cost payments that are no longer incurred), would require a petition to change an analytical principle, which the Commission invited no later than December 21, 2022, should the proponent of such a petition wish it to be considered for FY 2022. *Id.* at 11. Such a petition is outside the scope of Proposal Seven and this docket.

payments (that were not made) between September 2012 and September 2021 from the Postal Service's other FY 2022 accounting costs that flow into its Annual Compliance Review (ACR) regulatory report. Petition, Proposal Seven at 1. Proposal Seven, in other words, excludes the PSRA forgiveness of the RHB prefunding payments from institutional cost for FY 2022. *Id.*

The Postal Service notes that in the years following the passage of the Postal Accountability and Enhancement Act, and consistent with generally accepted accounting principles, it accrued expenses in each year for scheduled RHB prefunding payments that were required by law. *Id.* at 4. The Postal Service contends that such treatment was rational (as in those years it was treated as any other expenses for that year). *Id.* The Postal Service, however, differentiates this steady series of annual prefunding required payments from the ''sudden and unprecedented occurrence of a one-time reversal of a *decade's* worth of unpaid prefunding expenses from prior years.'' *Id.* (emphasis in original).

The Postal Service notes the broad agreement among all parties as to what would result if it were to treat the PSRA forgiveness of the RHB payments as an offset to institutional costs (that it would result in institutional costs for FY 2022 being a ''very large negative number''). *Id.* at 5. The Postal Service reiterates how that occurrence creates regulatory issues with the appropriate share provision, and the calculation of the imputed Federal income tax. *Id.*

The Postal Service also notes the inadvertent effect (or as it characterizes, the outcome mailers seek to ensure) of nullifying the density-based rate authority calculated as part of the FY 2022 ACR process. *Id.* The Postal Service explains how nullifying the density authority due to the PSRA forgiveness of RHB prefunding payments would interfere and disrupt the regulatory rationale behind the density-based authority. *Id.* at 5–7.

The Postal Service proposes one of two methods to effect its proposal to account for the PSRA forgiven RHB prefunding payments. First, the Postal Service proposes (as its preferable approach) to ''zero out'' Component 203 in the Cost Segment 18 tab of the Reallocated Trial Balance by omitting the reallocation of the negative $56,975,093,943.28 from Trial Balance account 51265.000 into Component 203. *Id.* at 8. The Postal Service contends that this would result in ''total costs at the bottom of the CRA that differed by the same amount from the sum of the Total Operating Expenses, Impact of Postal Service Reform Legislation, and Interest Expense rows of the Postal Service's Statements of Operations in its form 10–K. *Id.* Under this methodology institutional costs for FY 2022 would not be ''inappropriately affect[ed]'' compared to how they would be without Proposal Seven. *Id.* Second, the Postal Service proposes (as an alternative option) the reallocation of the $56,975,093,943.28 negative expense from Trial Balance account 51265.000 to the Miscellaneous Items row in the CRA, but excluding it from the row ''All Other'' that identifies institutional cost. *Id.*

Overall, the Postal Service identifies the impact of Proposal Seven to exclude the ''one-time massive negative RHB expense accrual triggered by the PSRA from overwhelming routine FY 2022 institutional costs . . . [and avoiding] the inappropriate detrimental regulatory consequences of the 'nonsensical' result of negative institutional costs.'' *Id.* at 10.

III. Notice and Comment

The Commission establishes Docket No. RM2023–2 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Seven no later than December 27, 2022. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2023–2 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Seven), filed December 12, 2022.

2. Comments by interested persons in this proceeding are due no later than December 27, 2022.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Jennaca D. Upperman to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–27393 Filed 12–16–22; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2022–0719, FRL–10254–01–R10]

Air Plan Approval; ID; Incorporation by Reference Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a revision to the Idaho State Implementation Plan (SIP) submitted on May 4, 2022. The submission updates the incorporation by reference of the national ambient air quality standards and related planning and monitoring requirements into the Idaho air quality rules as of July 1, 2021. Idaho undertakes such updates regularly to ensure the state air quality rules and the federally enforceable Idaho SIP remain consistent with EPA air quality regulations over time.

DATES: Comments must be received on or before January 18, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2022–0719, at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information 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, the full EPA public comment policy, information about Confidential Business Information or multimedia submissions, and general guidance on making effective comments, please visit

www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Kristin Hall, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–6357 or *hall.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Evaluation
III. Proposed Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background

Section 110 of the Clean Air Act requires each state to submit a State Implementation Plan (SIP) to attain and maintain the national ambient air quality standards promulgated by the EPA. To stay up to date with changes to the standards and related planning and monitoring requirements, Idaho incorporates certain Federal provisions by reference into state air quality rules as of a specific date. Each year, Idaho updates the citation date and submits the revised state air quality rules to the EPA for approval into the Idaho SIP.

II. Evaluation

On May 3, 2022, Idaho submitted such an update. In the submission, Idaho revised the date by which specific Federal provisions are incorporated by reference into the state air quality rules from July 1, 2020 to July 1, 2021. Specifically, these Federal provisions are incorporated in IDAPA 58.01.01.107 *Federal Regulations Incorporated by Reference,* section 03, paragraphs a through e, and consist of the following:

- National Primary and Secondary Ambient Air Quality Standards, 40 Code of Federal Regulations (CFR) part 50;
- Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR part 51, with the exception of certain visibility-related provisions;
- Approval and Promulgation of Implementation Plans, 40 CFR part 52, subparts A and N, and appendices D and E;
- Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR part 53; and
- Ambient Air Quality Surveillance, 40 CFR part 58.

Between the current SIP-approved adoption date of July 1, 2020 and the revised adoption date of July 1, 2021, the EPA made no changes to 40 CFR parts 50, 53, and 58. With respect to 40 CFR part 51, the EPA revised the continuous emissions monitoring reporting requirements in Appendix P to make SIP-related reporting more consistent with similar reporting under the New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants.[1] Specifically, certain source categories[2] subject to SIP requirements must, at a minimum, report excess emissions semi-annually instead of quarterly.

The EPA also revised 40 CFR part 52 to update the requirements for certain states to address the interstate transport of pollutants in the eastern part of the United States.[3] We note this rulemaking does not apply in Idaho. Additionally, the EPA revised the 40 CFR 52.21 major new source review applicability regulations to clarify when the requirement to obtain a major new source review permit applies to a source proposing to undertake a physical change or a change in the method of operation (*i.e.,* a project) under the major new source review pre-construction permitting programs.[4]

Finally, the EPA revised 40 CFR part 52 subpart N to approve changes to the Idaho SIP, including an update to the incorporation by reference of EPA regulations, revisions to address interstate transport requirements, and a change to redesignate to attainment the Idaho portion of the Logan, Utah-Idaho fine particulate matter nonattainment area.[5]

Idaho's revisions to IDAPA 58.01.01.107, section 03, paragraphs a through e have the effect of incorporating into the Idaho SIP the revisions to 40 CFR parts 51 and 52 described above. After reviewing the submission, we have made the preliminary determination that the submitted updates are consistent with Federal regulations and Clean Air Act requirements.

III. Proposed Action

The EPA proposes to approve and incorporate by reference revisions to the Idaho SIP submitted on May 4, 2022. Upon final approval, the Idaho SIP will include IDAPA 58.01.01.107 *Incorporation by Reference,* subsection 03, paragraphs a through e, state effective March 24, 2022. As described in section II of this preamble, this provision incorporates the national ambient air quality standards and related planning and monitoring requirements as of July 1, 2021.

IV. Incorporation by Reference

In this document, the EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions described in section III of this preamble. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 10 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 Clean Air Act, the Administrator is required to approve a State Implementation Plan submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing State Implementation Plan 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 approves 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);

[1] 85 FR 49596, August 14, 2020.

[2] The covered source categories are: fossil fuel-fired steam generators; fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries; sulfuric acid plants; and nitric acid plants.

[3] 86 FR 23054, April, 30, 2021.

[4] 85 FR 74890, November 24, 2020.

[5] 85 FR 73632, November 19, 2020; 85 FR 65722, October 16, 2020; 86 FR 18457, April 9, 2021; 86 FR 27532, May 21, 2021.

- 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 the requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking would not apply on any Indian reservation land or in any other area in Idaho where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rulemaking would not have tribal implications 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 13, 2022.

Casey Sixkiller,

Regional Administrator, Region 10.

[FR Doc. 2022–27477 Filed 12–16–22; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 87, No. 242

Monday, December 19, 2022

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

Comments regarding this information collection received by January 18, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Food and Nutrition Service

Title: 7 CFR part 235—State Administrative Expense (SAE) Funds.

OMB Control Number: 0584–0067.

Summary of Collection: The authority for this collection is provided in Sections 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779). As required, the Food and Nutrition Service (FNS) issued regulations in 7 CFR part 235, which prescribes the methods for making payments of funds to State agencies to use for administrative expenses incurred in overseeing and providing technical assistance in connection with activities undertaken under the National School Lunch Program (NSLP), the Special Milk Program (SMP), the School Breakfast Program (SBP), the Child and Adult Care Food Program (CACFP), and the Food Distribution Program (FDP). This information collection is required to administer these Programs in accordance with the Act. For this revision, FNS has revised the FNS–525 form to eliminate data fields which collect data that can be obtained from the FNS financial data systems. FNS expects that these revisions will reduce the burden hours for this collection.

Need and Use of the Information: This is a mandatory information collection. Under this collection, FNS collects the information necessary for making payments of funds to State agencies to use for the administrative expenses incurred in overseeing and providing technical assistance in connection with the activities undertaken by them under the NSLP, SMP, SBP, CACFP, and the FDP. The Federal regulations in 7 CFR part 235 SAE Funds require the collection of information associated with this collection. The respondents for this collection are the State educational agencies and the alternate State agencies that have agreements with FNS for the administration of the various programs. This information is collected through written agreements that cover the operation of the Program during a specified period; State Administrative Expense plans that outline funding and activities; State Administrative Expense Funds Reallocation Reports that describe the use of SAE funds and which are used to reallocate SAE funds; and annual reports containing information on the number of School Food Authorities (SFAs) under agreement with the State agency to participate in the National School Lunch or Commodity School Programs. Under this collection, the State agencies also maintain current accounting records of State administrative expense funds which identify fund authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 83.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 6,306.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–27409 Filed 12–16–22; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2022–0018]

Proposed Revisions to the National Handbook of Conservation Practices for the Natural Resources Conservation Service

AGENCY: Natural Resources Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of availability; request for comments.

SUMMARY: The Natural Resources Conservation Service (NRCS) is giving notice that it intends to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices (NHCP). NRCS is also giving the public an opportunity to provide comments on specified conservation practice standards in the NHCP.

DATES: We will consider comments that we receive by January 18, 2023.

ADDRESSES: We invite you to submit comments in response to this notice. You may submit your comments through one of the methods below:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID NRCS–2022–0018. Follow

the online instructions for submitting comments; or

• *Mail or Hand Delivery:* Mr. Clarence Prestwich, National Agricultural Engineer, Conservation Engineering Division, NRCS, USDA, 1400 Independence Avenue, South Building, Room 4636, Washington, DC 20250. In your comment, please specify the Docket ID NRCS–2022–0018.

All comments received will be made publicly available on *http://www.regulations.gov.*

The copies of the proposed revised standards are available through *http://www.regulations.gov* by accessing Docket No. NRCS–2022–0018.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence Prestwich at (202) 720–2972 or email *clarence.prestwich@usda.gov.* Persons with disabilities who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

NRCS plans to revise the conservation practice standards in the NHCP. This notice provides an overview of the planned changes and gives the public an opportunity to offer comments on the specific conservation practice standards and NRCS's proposed changes.

NRCS State Conservationists who choose to adopt these practices in their States will incorporate these practices into the respective electronic Field Office Technical Guide. These practices may be used in conservation systems that treat highly erodible land (HEL) or on land determined to be wetland. Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) requires NRCS to make available for public review and comment all proposed revisions to conservation practice standards used to carry out HEL and wetland provisions of the law.

Revisions to the National Handbook of Conservation Practices

The amount of the proposed changes varies considerably for each of the conservation practice standards addressed in this notice. To fully understand the proposed changes, individuals are encouraged to compare these changes with each standard's current version, which can be found at: *https://www.nrcs.usda.gov/resources/guides-and-instructions/conservation-practice-standards.*

NRCS is requesting comments on the following conservation practice standards:

• Animal Mortality Facility (Code 316);
• Forest Trails and Landings (Code 655);
• Lined Waterway or Conveyance Channel (Code 468);
• Obstruction Removal (Code 500);
• Terrace (Code 600);
• Tree-Shrub Establishment (Code 612);
• Underground Outlet (Code 620);
• Waste Storage Facility (Code 313); and
• Water and Sediment Control Basin (Code 638).

The following are highlights of some of the proposed changes to each standard:

Animal Mortality Facility (Code 316): Criteria for preprocessing mortality for composting and additional criteria for forced air composting and treatment using alkaline hydrolysis and dehydration were added to the standard. Other minor changes were made, and document was edited to improve the clarity of the practice and align temperature and moisture criteria with references.

Forest Trails and Landings (Code 655): The ''Purpose'' section was revised to align with the NRCS identified resource concerns. Minor rewording throughout to improve readability.

Lined Waterway or Conveyance Channel (Code 468): Changed name from ''Lined Waterway or Outlet'' to ''Lined Waterway or Conveyance Channel.'' Clarified ''Conditions Where Practice Applies'' section. Updated ''Criteria'' and ''Considerations'' sections to include more material on downstream waters and aquatic organism passage. Updated references and language.

Obstruction Removal (Code 500): Improved readability and changed definition and purposes to be more concise. Reorganized ''Criteria'' by moving statements to ''Consideration'' and ensuring compliance to state and local laws. Added statement of treated wood and source water to ''Considerations.'' Updated references.

Terrace (Code 600): Minor rewording throughout to improve readability. Moved the statement on using the soil survey to identify problem soils from ''Considerations'' to ''General Criteria.'' In ''Considerations,'' removed the statement about potentially hazardous slopes as it is already addressed in the cross-section portion of ''Criteria'' and removed a statement regarding potential erosion at the exit of an underground outlet as it is addressed in CPS620 Underground Outlet.

Tree-Shrub Establishment (Code 612): Minor rewording throughout to improve readability. The Purpose section was revised to align with agency identified resource concerns. A new purpose and an additional criterion added for ''Provide Livestock Shelter.'' Removed ''Develop Renewable Energy System'' purpose and criterion since it does not directly address an agency identified resource concern.

Underground Outlet (Code 620): Minor rewording throughout to improve readability. Maintain water quality was added as a ''Purpose'' to address situations where an underground outlet is used with roof runoff structures to keep clean water from areas with livestock and animal waste. Revisions to the ''Materials'' and ''Outlet'' sections of the ''Criteria'' were made to better align with CPS Subsurface Drain (Code 606). A ''Consideration'' was added about potential effects on the hydrology of adjacent lands and especially wetlands.

Waste Storage Facility (Code 313): The ''Purpose'' section was updated to clarify the resource concerns that address surface and groundwater quality. A new section was added to address considerations for health and safety. Revisions were made to improve clarity of the standard, align with the Plain Writing Act of 2010 (Pub. L. 111–274), and improve the document format to meet NRCS general writing guidelines.

Water and Sediment Control Basin (Code 638): Minor rewording throughout to improve readability. Moved ''using the soil survey to identify problem soils'' from ''Considerations'' to ''General Criteria.'' In the ''Earth Embankment'' section of ''Criteria,'' clarified the steepest safe farmable embankment slope as 5 horizontal to 1 vertical. In the ''Outlets'' section of ''Criteria,'' a statement from ''Considerations'' regarding outlets with auxiliary spillways was moved to ''Criteria'' to clarify design requirements.

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Louis Aspey,

Associate Chief, Natural Resources Conservation Service.

[FR Doc. 2022–27441 Filed 12–16–22; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Guam Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Guam Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Zoom at 9:00 a.m. ChST on Tuesday, January 17, 2023, (6:00 p.m. ET on Monday, January 16, 2023) to continue discussing the Committee's project on housing discrimination.

DATES: The meeting will take place on Tuesday, January 17, 2023, from 9:00 a.m.–10:30 a.m. ChST (Monday, January 16, 2023, from 6:00 p.m.–7:30 p.m. ET).

ADDRESSES:

Registration Link (Audio/Visual): https://tinyurl.com/2s3tjuav.

Telephone (Audio Only): Dial (833) 435–1820 USA Toll Free; Meeting ID: 160 400 6634.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, DFO, at *kfajota@usccr.gov* or (434) 515–2395.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, members of the public who wish to speak during public comment must provide their name to the Commission; however, if a member of the public wishes to join anonymously, we ask that you please join by phone. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captions will be provided for individuals who are deaf, deafblind, or hard of hearing. To request additional accommodations, please email *kfajota@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Guam Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome & Roll Call
II. Announcements & Updates
III. Approval of Meeting Minutes
IV. Discussion: Draft Project Proposal
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: December 14, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–27440 Filed 12–16–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Tennessee Advisory Committee to the Commission will convene by Zoom on Wednesday, January 11, 2023, at 12:00 p.m. (CT). The purpose of the meeting is to discuss public briefing planning for their project on voting rights.

DATES: The meeting will take place on Wednesday, January 11, 2023, from 12:00 p.m.–1:30 p.m. (CST)

ADDRESSES:

Registration Link (Audio/Visual): http://bit.ly/3WhgfJu.

Telephone (Audio Only): Dial (833) 568–8864 USA Toll Free; Access Code: 160 387 5977.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the Zoom link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Wednesday, January 11, 2023; 12:00 p.m. (CT)

1. Welcome & Roll Call
2. Chair's Comments
3. Discussion on briefing planning for the project on voting rights
4. Next Steps
5. Public Comment
6. Adjourn

Dated: December 14, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–27444 Filed 12–16–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Puerto Rico Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Puerto Rico Advisory Committee to the Commission will convene by virtual web conference on Monday, January 23, 2023, at 3:30 p.m. Atlantic Time (2:30 p.m. Eastern Time). The purpose is to discuss their project on the civil rights impacts of the Insular Cases in Puerto Rico.

DATES: January 23, 2023, Monday, at 3:30 p.m. (AT):

- To join by web conference, use Zoom link: *https://tinyurl.com/4ctn2akt;* password, if needed: USCCR–PR.
- To join by phone only, dial 1–551–285–1373; Meeting ID: 161 144 0473#.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting will be held in Spanish with English interpretation available. This meeting is available to the public through the link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Monday, January 23, 2022; 3:30 p.m. Atlantic Time (2:30 p.m. ET)

1. Welcome & Roll Call
2. Committee Discussion on Project Regarding the Civil Rights Impacts of the Insular Cases in Puerto Rico
3. Next Steps
4. Public Comment
5. Other Business
6. Adjourn

Dated: December 14, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–27443 Filed 12–16–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Renewing Temporary Denial of Export Privileges

Belavia Belarusian Airlines, 14A Nemiga str., Minsk, Belarus, 220004

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] I hereby grant the request of the Office of Export Enforcement (''OEE'') to renew the temporary denial order (''TDO'') issued in this matter on June 16, 2022. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations.

I. Procedural History

On June 16, 2022, I signed an order denying the export privileges of Belavia Belarusian Airlines (''Belavia'') for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order was issued *ex parte* pursuant to section 766.24(a) of the Regulations and was effective upon issuance.[2]

On November 21, 2022, BIS, through OEE, submitted a written request for renewal of the TDO that issued on June 16, 2022. The written request was made more than 20 days before the TDO's scheduled expiration. A copy of the renewal request was sent to Belavia in accordance with sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

II. Renewal of the TDO

A. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

[2] The TDO was published in the **Federal Register** on June 22, 2022 (87 FR 37309).

general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

B. The TDO and BIS's Request for Renewal

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (section 746.8(a)(1) of the EAR).[3] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (section 740.15 of the EAR), and as part of the same rule, imposed a license requirement for the export, reexport, or transfer (in-country) of all items controlled under CCL Categories 3 through 9 to Belarus.[4] On April 8, 2022, BIS excluded any aircraft registered in, owned, controlled by, or under charter or lease by Belarus or a national of Belarus from eligibility to use license exception AVS for travel to Russia or Belarus.[5] Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Belarus or a national of Belarus, is subject to a license requirement before it can travel to Russia or Belarus.

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO and the evidence developed over the course of this investigation, which indicate a blatant disregard for U.S. export controls, as well as the TDO. Specifically, the initial TDO, issued on June 16, 2022, was based on evidence that Belavia engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991.b on flights into Belarus after April 8, 2022 from destinations including but not limited to, Moscow, Russia; St. Petersburg, Russia; Antalya, Turkey; Istanbul, Turkey; Tbilisi, Georgia; Batumi, Georgia; Sharjah, United Arab Emirates; and Sharm el-Sheikh, Egypt, without the required BIS authorization.[6]

In its November 21, 2022 request for renewal of the TDO, BIS has submitted evidence that Belavia continues to operate in violation of the June 16, 2022 TDO and/or the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991.b. Specifically, BIS's evidence and related investigation indicated that after the issuance of the TDO, Belavia continued to fly aircraft into Belarus in violation of the EAR, including flights from St. Petersburg and Moscow Russia; Istanbul, Turkey; and Sharjah, UAE. Information about those flights includes, but is not limited to, the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
EW–455PA	61421	737–8ZM (B738)	Moscow, RU/Minsk, BY	November 15, 2022.
EW–455PA	61421	737–8ZM (B738)	Istanbul, TR/Minsk, BY	November 16, 2022.
EW–455PA	61421	737–8ZM (B738)	Istanbul, TR/Minsk, BY	November 17, 2022.
EW–455PA	61421	737–8ZM (B738)	Istanbul, TR/Minsk, BY	November 18, 2022.
EW–455PA	61421	737–8ZM (B738)	Tbilisi, GE/Minsk, BY	December 6, 2022.
EW–455PA	61421	737–8ZM (B738)	Istanbul, TR/Minsk, BY	December 9, 2022.
EW–456PA	61422	737–8ZM (B738)	Hurghada, EG/Minsk, BY	November 17, 2022.
EW–456PA	61422	737–8ZM (B738)	Moscow, RU/Minsk, BY	November 18, 2022.
EW–456PA	61422	737–8ZM (B738)	Moscow, RU/Minsk, BY	December 6, 2022.
EW–456PA	61422	737–8ZM (B738)	St. Petersburg, RU/Minsk, BY	December 9, 2022.
EW–457PA	61423	737–8ZM (B738)	Sharjah, AE/Minsk, BY	November 12, 2022.
EW–457PA	61423	737–8ZM (B738)	St. Petersburg, RU/Minsk, BY	November 17, 2022.
EW–457PA	61423	737–8ZM (B738)	Tbilisi, GE/Minsk, BY	December 5, 2022.
EW–457PA	61423	737–8ZM (B738)	Minsky, BY/Moscow, RU	December 7, 2022.
EW–457PA	61423	737–8ZM (B738)	Moscow, RU/Minsk, BY	December 7, 2022

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Belavia has acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Therefore, renewal of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Belavia in connection with export and reexport transactions involving items subject to the Regulations and in connection with

[3] 87 FR 12226 (Mar. 3, 2022).

[4] 87 FR 13048 (Mar. 8, 2022).

[5] 87 FR 22130 (Apr. 14, 2022).

[6] Publicly available flight tracking information shows, for example, that on May 10, 2022, serial number (SN) 61423 flew from Moscow, Russia to Minsk, Belarus. On June 14, 2022, SN 61422 flew from Istanbul, Turkey to Minsk, Belarus and SN 40877 flew from Sharjah, United Arab Emirates to Minsk, Belarus.

any other activity subject to the Regulations.

IV. Order

It is Therefore Ordered:

First, Belavia Belarusian Airlines, 14A Nemiga str., Minsk, Belarus, 220004, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Belavia any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Belavia of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Belavia acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Belavia of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

D. Obtain from Belavia in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Belavia, or service any item, of whatever origin, that is owned, possessed or controlled by Belavia if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Belavia by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of sections 766.24(e) of the EAR, Belavia may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Belavia as provided in section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Belavia, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: December 13, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2022–27396 Filed 12–16–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Mexico Canada Agreement (USMCA), Article 10.12; Binational Panel Review: Notice of Completion of Panel Review

AGENCY: United States Section, USMCA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of completion of panel review in the matter of Large Diameter Welded Pipe from Canada: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2020 (Secretariat File Number USA–CDA–2022–10.12–01).

SUMMARY: On December 9, 2022, the USMCA Secretariat received a Consent Motion to Terminate Panel Review from Hogan Lovells US LLC on behalf of Evraz Inc. NA in the above-mentioned dispute. As a result, and pursuant to Rule 75(2) of the *USMCA Rules of Procedure for Article 10.12 (Binational Panel Review),* the USMCA dispute USA–CDA–2022–10.12–01 has been terminated effective December 9, 2022.

FOR FURTHER INFORMATION CONTACT: Vidya Desai, United States Secretary, USMCA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, 202–482–5438.

SUPPLEMENTARY INFORMATION: Article 10.12 of the USMCA establishes a mechanism to provide an alternative to judicial review by domestic courts of final determinations in antidumping and countervailing duty cases, with review by independent binational panels. A Panel is established when a Request for Panel Review is filed with the Secretariat by an industry asking for a review of an investigating authority's decision involving imports from a Party to the Agreement. For the complete USMCA *Rules of Procedure for Article 10.12 (Binational Panel Reviews),* please see *https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/rules-regles-reglas/article-article-articulo_10_12.aspx?lang=eng.*

Dated: December 14, 2022.

Julie Geiger,

International Trade Specialist, USMCA Secretariat.

[FR Doc. 2022–27435 Filed 12–16–22; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee) will hold an open meeting on Wednesday, February 8, 2023, from 8:30 a.m. to 5:00 p.m. Mountain Time and Thursday, February 9, 2023, from 8:30 a.m. to 2:00 p.m. Mountain Time. The primary purpose of this meeting is for the Committee to review the latest activities of the National Earthquake Hazards Reduction Program (NEHRP) and to discuss the Committee's 2023 Biennial Report on the Effectiveness of NEHRP. The final agenda will be posted on the NEHRP website at *http://nehrp.gov/.*

DATES: The ACEHR will meet on Wednesday, February 8, 2023, from 8:30 a.m. to 5:00 p.m. Mountain Time and Thursday, February 9, 2023, from 8:30 a.m. to 2:00 p.m. Mountain Time.

ADDRESSES: The meeting will be held in the Katharine Blodgett Gebbie Laboratory Conference Room 1A106, Building 81, at the National Institute of Standards and Technology (NIST), 325 Broadway Street, Boulder, Colorado 80305, with an option to participate via web conference. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tina Faecke, Management and Program Analyst, NEHRP, Engineering Laboratory, NIST. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (240) 477–9841.

SUPPLEMENTARY INFORMATION: The Committee is composed of 13 members, appointed by the Director of NIST, who were selected for their established records of distinguished service in their professional community, their knowledge of issues affecting NEHRP, and to reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. In addition, the Chairperson of the U.S. Geological Survey Scientific Earthquake Studies Advisory Committee serves as an ex-officio member of the Committee.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ACEHR will meet on Wednesday, February 8, 2023, from 8:30 a.m. to 5:00 p.m. Mountain Time and Thursday, February 9, 2023, from 8:30 a.m. to 2:00 p.m. Mountain Time. The meeting will be open to the public and will be held in-person and via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purpose of this meeting is for the Committee to review the latest activities of NEHRP and to discuss the Committee's 2023 Biennial Report on the Effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP website at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. Approximately fifteen minutes will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to participate are invited to submit written statements electronically by email to *tina.faecke@nist.gov.*

Anyone wishing to attend this meeting via web conference must register by 5:00 p.m. Eastern Time, Wednesday, February 1, 2023, to attend. Please submit your full name, the organization you represent (if applicable), email address, and phone number to Tina Faecke at *tina.faecke@nist.gov.* After pre-registering, participants will be provided with instructions on how to join the web conference. Any member of the public wishing to attend this meeting in person must pre-register to be admitted on the NIST campus. Please submit your full name, estimated time of arrival, email address, and phone number to Peter Gale (*peter.gale@nist.gov*) by 5:00 p.m. Eastern Time, Wednesday, February 1, 2023. Non-U.S. citizens must submit additional information; please contact Peter Gale. For participants attending in person, please note that federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (P.L. 109–13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please email Peter Gale or visit: *http://www.nist.gov/public_affairs/visitor/.*

Authority: 42 U.S.C. 7704(a)(5) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2022–27456 Filed 12–16–22; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Wage Mariner Hiring Portal

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 17, 2023.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0790 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection

activities should be directed to Luther Young III, Office of Marine and Aviation Operations, 1315 East West Hwy, 10th Floor, Silver Spring, MD 20910, telephone number (202) 710—3285, email address: *luther.young@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of an existing information collection.

The Wage Mariner Hiring Portal (WMHP) is an internet-based system (website) that is designed to allow an applicant to apply for a ''wage mariner'' position within the National Oceanic and Atmospheric Administration (NOAA) fleet of maritime vessels. The WMHP system collects basic user information, wage mariner licensing, certifications, and relevant current and or past work history. The Department of Commerce (DOC), through NOAA, Office of Marine and Aviation Operations (OMAO) has special hiring authority under Code of Federal Regulations (CFR), Title 5, chapter 1, subchapter A, part 3, 3.2 and under the DOC Department Administrative Order (DAO) 202–302 section 2, subsection .02a. specific to the hiring of federal wage mariner employees. The regulations allow OMAO to hire wage mariners into excepted service positions within the NOAA fleet of ocean going vessels in order to maintain adequate operations, maintenance, and safe staffing of the maritime ships.

No physical forms are used in this collection, it is all online. Applicants fill out basic personal, licensure, and work history information into a profile resume. Once their basic profile is complete, applicants can submit this resume to available wage mariner positions as shown on the WMHP website. The application information received is used to determine if the applicant meets the basic job qualification. The applicant's information is then passed on to the hiring official or it is placed in a pool of prospective candidates for future openings. Application information includes: first and last name, contact number and email address, wage mariner licenses and certifications, relevant work history.

II. Method of Collection

Information will be collected electronically (internet) through an online web based interactive system.

III. Data

OMB Control Number: 0648–0790.

Form Number(s): None.

Type of Review: Regular submission (extension of approved information collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 1000.

Estimated Time per Response: 60 minutes. 5 minutes to fill our applicant's first and last name and contact mobile and or home number and email address. 5 minutes to fill out wage mariner license specific information. 40 minutes to enter wage mariner certifications and relevant past work history. 10 minutes to fill out relevant educational history.

Estimated Total Annual Burden Hours: 6000 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: Code of Federal Regulations (CFR), Title 5, Chapter 1, Subchapter A, Part 3, § 3.2.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–27408 Filed 12–16–22; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC541]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability; extension of public comment period.

SUMMARY: The National Marine Fisheries Service (NMFS) is extending the public comment period for the proposed Elliott State Research Forest Habitat Conservation Plan (HCP). NMFS is reviewing the Incidental Take Permit (ITP) application submitted by the Oregon Department of State Lands (ODSL), who is seeking authorization from NMFS and the U.S. Fish and Wildlife Service (FWS) for the incidental take of three species (two under FWS jurisdiction, and one under NMFS jurisdiction). The FWS is the lead federal agency under the National Environmental Policy Act (NEPA), and NMFS is a cooperating agency. FWS is extending the public comment period on the Draft Environmental Impact Statement and proposed HCP until January 10, 2023; therefore, NMFS is also extending its public comment period on the proposed HCP until January 10, 2023.

DATES: The comment period for the proposed HCP, notice of which was published on November 18, 2022 (87 FR 69256), is extended until January 10, 2023. Comments must be received by 11:59 p.m. Eastern Time on January 10, 2023.

ADDRESSES:

Written Comments: Written comments on the proposed HCP will be accepted via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter FWS–R1–ES–2022–0029 in the Search Box. Follow instructions for submitting comments on Docket FWS–R1–ES–2022–0029. When commenting, please refer to the specific section and/or page number and the subject of your comment.

Instructions: Written comments submitted through any other method, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov.* All personal identifying information (*e.g.,* name,

address), 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).

FOR FURTHER INFORMATION CONTACT: Kathleen Wells, NMFS, 503–230–5437, *Kathleen.Wells@noaa.gov.* Shauna Everett, FWS, 503–231–6949, *Shauna_Everett@fws.gov.*

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines ''take'' to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS and FWS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA and implementing regulations (50 CFR 222.307 for NMFS and 50 CFR 17.22(b) and 17.32(b) for FWS) provide for authorizing incidental take of listed species.

NMFS received an ITP application from ODSL on October 10, 2022, pursuant to the ESA. ODSL prepared the HCP in support of the ITP applications and is seeking authorization from NMFS for incidental take of the Oregon Coast Coho salmon (covered species).

The ITP, if issued, would authorize take of the covered species that may occur incidental to ODSL's research and forest management activities (the covered activities). The plan area includes a total of 93,432 acres, which includes School Lands and Board of Forestry Lands managed by ODSL and ODF. The covered activities include the foundational research design of the Elliott State Research Forest proposal including; forest research treatments; operation standards, by research treatment designation; projected harvest timing, amount, and amount of harvest types, and methods; supporting management activities; supporting infrastructure, including roads and facilities; potential research projects; and implementation of the HCP's conservation strategy.

NMFS is extending its public comment period on the proposed HCP to align with the extended comment period of FWS. NMFS will be taking public comment on the proposed HCP through January 10, 2023.

Authority: Section 10(c) of the ESA and its implementing regulations (50 CFR 222.307, 17.22 and 17.32).

Dated: December 13, 2022.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–27395 Filed 12–16–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC517]

Draft Supplemental Programmatic Environmental Assessment for Fisheries Research Conducted and Funded by the Northwest Fisheries Science Center

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

ACTION: Notice of availability of a draft supplemental programmatic environmental assessment; request for comments.

SUMMARY: NMFS announces the availability of the ''Draft Supplemental Programmatic Environmental Assessment (SPEA) for Fisheries Research Conducted and Funded by the Northwest Fisheries Science Center.'' Publication of this notice begins the official public comment period for this SPEA. The purpose of this Draft SPEA is to evaluate potential direct, indirect, and cumulative effects of changes in research that were not analyzed in the 2018 Northwest Fisheries Science Center (NWFSC) Programmatic Environmental Assessment (PEA), or new research activities along the U.S. West Coast, from California US-Mexico Border to Washington US-Canada Border. Select surveys in partnership with Department of Fisheries and Oceans-Canada extend this research area through British Columbia, Canada to Alaska. Where necessary, updates to certain information on species, stock status or other components of the affected environment that may result in different conclusions from the 2018 PEA are presented in this analysis.

DATES: Comments and information must be received no later than January 18, 2023.

ADDRESSES: Comments on the Draft SPEA should be addressed to Larry Hufnagle, Environmental Compliance Coordinator, NOAA/NMFS/NWFSC, 2725 Montlake Blvd. E, Seattle, WA 98112. The mailbox address for providing email comments is: *nmfs.nwfsc.spea@noaa.gov.*

NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of the Draft SPEA may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *https://www.fisheries.noaa.gov/action/supplemental-programmatic-environmental-assessment-fisheries-research-conducted-and-funded.* Documents cited in this notice may also be viewed, by appointment, during regular business hours at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Larry Hufnagle, email: *lawrence.c.hufnagle@noaa.gov,* phone: (206) 310–6817.

SUPPLEMENTARY INFORMATION: The NWFSC is the research arm of NMFS in the Northwest Region. The purpose of NWFSC fisheries research is to produce scientific information necessary for the management and conservation of living marine resources along the U.S. West Coast Exclusive Economic Zone (EEZ) Federal waters from the California US-Mexico Border to the Washington US-Canada Border. NWFSC's research is needed to promote both the long-term sustainability of the resource and the recovery of certain species, while generating social and economic opportunities and benefits from their use. Primary research activities include: seasonal bottom trawl surveys to support assessments of ground fish; seasonal acoustic mid-water pelagic surveys to support the assessment of Pacific Hake and semi-pelagic fish species; salmon surveys; marine mammal research and surveys; Uncrewed Systems research and surveys; and rockfish hook and line surveys in the EEZ.

NMFS has prepared the Draft SPEA under the National Environmental Policy Act (NEPA) to evaluate two alternatives for conducting and funding fisheries and ecosystem research activities as the primary Federal action. Additionally in the Draft SPEA, NMFS evaluates a related action, also called a ''connected action'' under 40 CFR 1508.25 of the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA (42 U.S.C. 4321 *et seq.*), which is the proposed promulgation of regulations and authorization of the take of marine mammals incidental to the fisheries research under the Marine Mammal Protection Act (MMPA).

Additionally, because the proposed research activities occur in areas inhabited by species of marine mammals, birds, sea turtles, and fish listed under the Endangered Species Act (ESA) as threatened or endangered, this Draft SPEA evaluates activities that could result in unintentional takes of ESA-listed marine species.

The following two alternatives are currently evaluated in the Draft SPEA:

- Alternative 1—Continue current fisheries and ecosystem research (Status Quo/no action) as described in the 2018 NWFSC PEA.
- Alternative 2—Conduct current research with some modifications, as well as new research activities that are planned for the future (*i.e.,* 2023–2028). New future research proposed under Alternative 2 was not previously analyzed in the 2018 PEA.

The alternatives include a program of fisheries and ecosystem research projects conducted or funded by the NWFSC as the primary Federal action. Because this primary action is connected to a secondary Federal action, to consider authorizing incidental take of marine mammals under the MMPA, NMFS must identify as part of this evaluation ''(t)he means of effecting the least practicable adverse impact on the species or stock and its habitat'' (Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*)). NMFS must therefore identify and evaluate a reasonable range of mitigation measures to minimize impacts to protected species that occur in NWFSC research areas. These mitigation measures are considered as part of the identified alternatives in order to evaluate their effectiveness to minimize potential adverse environmental impacts. The two action alternatives also include mitigation measures intended to minimize potentially adverse interaction with other protected species that occur within the action area. Protected species include all marine mammals, which are covered under the MMPA, all species listed under the ESA, and bird species protected under the Migratory Bird Treaty Act.

Potential direct and indirect effects on the environment are evaluated under each alternative in the Draft SPEA. The environmental effects on the following resources are considered: physical environment, special resource areas, fish, marine mammals, birds, sea turtles, invertebrates, and the social and economic environment. Cumulative effects of external actions and the contribution of fisheries research activities to the overall cumulative impact on the aforementioned resources is also evaluated in the Draft SPEA for the geographic regions in which NWFSC surveys are conducted.

NMFS requests comments on the Draft SPEA for Fisheries Research Conducted and Funded by the National Marine Fisheries Service, Northeast Fisheries Science Center. Please include, with your comments, any supporting data or literature citations that may be informative in substantiating your comment.

Dated: December 13, 2022.

Kevin Werner,

Science and Research Director, Northwest Fisheries Science Center, National Marine Fisheries Service.

[FR Doc. 2022–27451 Filed 12–16–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities Program—National Center on Technology Systems in Local Educational Agencies

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2023 for a National Center on Technology Systems in Local Educational Agencies, Assistance Listing Number 84.327T. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: December 19, 2022.

Deadline for Transmittal of Applications: March 6, 2023.

Deadline for Intergovernmental Review: May 3, 2023.

Pre-Application Webinar Information: No later than December 27, 2022, the Office of Special Education Programs (OSEP) will post details on pre-recorded informational webinars designed to provide technical assistance (TA) to interested applicants. Links to the webinars may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.* Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Anita Vermeer, U.S. Department of Education, 400 Maryland Avenue SW, Room 5076, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 987–0155. Email: *Anita.Vermeer@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Educational Technology, Media, and Materials for Individuals with Disabilities Program (ETechM2 Program) is to improve results for children with disabilities by (1) promoting the development, demonstration, and use of technology; (2) supporting educational media activities designed to be of educational value in the classroom for children with disabilities; (3) providing support for captioning and video description that is appropriate for use in the classroom; and (4) providing accessible educational materials to children with disabilities in a timely manner.[1]

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in sections 674(c)(1)(D) and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1474(b)(2)(B) and 1481(d).

Absolute Priority: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

[1] Applicants should note that other laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.;* 28 CFR part 35) and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794; 34 CFR part 104), may require that State educational agencies (SEAs) and local educational agencies (LEAs) provide captioning, video description, and other accessible educational materials to students with disabilities when these materials are necessary to provide equally integrated and equally effective access to the benefits of the educational program or activity, or as part of a ''free appropriate public education'' as defined in 34 CFR 104.33.

This priority is:

National Center on Technology Systems in Local Educational Agencies.

Background

Technology can transform learning experiences and create greater equity and access for all learners. With the goal of supporting students' diverse needs, education systems have embraced technology for its ability to customize learning more than ever before (Gray & Lewis, 2021). However, whether a student with a disability requires assistive technology (AT) must be determined for each student individually.

Despite the increase in technology used at the instructional level for all students, and the requirement in IDEA that students with disabilities be provided AT if deemed necessary for the provision of a free appropriate public education (FAPE), many SEAs and LEAs do not address AT in technology planning (Shaheen & Lazar, 2018). As a result, LEAs frequently vary in their ability to implement systems that support the effective use of AT and instructional technology by students with disabilities and their families. Individualized education program (IEP) Team members may lack knowledge of, or experience with the functionality of appropriate technology tools, systems of procurement, and supports for use of technologies in the homes, schools, and communities of students with disabilities (Atanga et al., 2020; Cohen & Popoff, 2022; Maylahan, 2022; U.S. Department of Education, 2022). In addition, policies and practices at the SEA and LEA levels, such as operability, privacy, and security concerns, may impact IEP Teams' decisions, access to appropriate AT, and the timeliness of services (Gray & Lewis, 2021; Maylahan, 2022).

At the LEA level, systems need to be in place to support the identification, procurement, deployment, and effective use of assistive and instructional technology. These systems consist of interrelated components such as funding sources, professional development activities, data collection, program accountability, and quality improvement. To support the IEP Teams' decisions and the timely provision of AT services to students with disabilities, a sound and sustainable framework to implement a ''shared vision for how technology can support learning and how to secure appropriate resources to sustain technology'' is required and must align with SEA systems (U.S. Department of Education, 2017, p. 44). Implementing a framework requires partnerships with community stakeholders and leaders to address the digital divide and identify solutions to barriers such as those related to availability, affordability, and adoption for students with disabilities (U.S. Department of Education, 2022).

Priority

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Center on Technology Systems in Local Educational Agencies (Center). The Center will provide TA on a framework [2] for LEAs to implement comprehensive and sustainable assistive and instructional technology [3] systems to include (1) effective professional development and training for instructional and support personnel, administrators, families, and other decision makers in the use and acquisition of assistive and instructional technology by students with disabilities; (2) identification of funding sources for costly assistive and instructional devices and services; and (3) coordination of programs to acquire, maintain, and reuse assistive and instructional technology devices and services.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased knowledge of providers and decision-makers in LEAs about evidence-based [4] assistive and instructional technology tools and practices (EBPs) for students with disabilities and their families;

(b) Increased effective use of assistive and instructional technology in LEAs within comprehensive and sustainable SEA-aligned systems [5] as applicable;

(c) Increased partnerships between LEAs and community stakeholders to support sustainable and comprehensive systems; and

(d) Increased capacity of providers and decision-makers to sustain comprehensive LEA and State-aligned systems for the effective use of assistive and instructional technology by students with disabilities and their families.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need for LEAs to build capacity to develop and sustain systems for the equitable and effective use of assistive and instructional technology by students with disabilities and their families. To meet this requirement, the applicant must—

(i) Present applicable national data demonstrating LEA resource gaps and areas of need in supporting equitable and effective use of assistive and instructional technology by students with disabilities and their families;

(ii) Demonstrate knowledge of current educational issues and policy initiatives relating to the equitable and effective use of assistive and instructional technology by students with disabilities and their families;

(iii) Present information about the current capacity of—

(A) Providers and decision-makers in LEAs to use EBPs that improve the effective use of assistive and instructional technology by students with disabilities and their families; and

(B) LEAs to implement components of comprehensive and sustainable systems that address barriers to the availability, affordability, and adoption of assistive and instructional technology by students with disabilities and their families; and

(2) Improve outcomes in equitable and effective use of assistive and instructional technology by students with disabilities and their families and indicate the likely magnitude or importance of the improvements.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this

[2] For purposes of this priority, ''framework'' refers to the theories, knowledge base, policies, and practices that form the basic conceptual structure of effective systems. A framework is a guide to increase the capacity of LEAs to understand, improve, and implement effective systems.

[3] Section 602 of IDEA defines an ''assistive technology device'' as ''any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.'' For the purposes of this priority, ''instructional technology'' is defined as technology processes and resources that facilitate learning and improve student performance for all students.

[4] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

[5] For the purposes of this priority, ''systems'' refers to interrelated components (*e.g.,* funding, professional development, data collection, accountability, and quality improvement) that need to be in place to support the identification, procurement, deployment, and effective use of assistive and instructional technology.

requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on readiness and capacity in LEAs to adopt a framework to address barriers to the availability, affordability, and adoption of assistive and instructional technology by students with disabilities and their families and related EBPs;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will use a framework and incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to increase the capacity of providers and decision-makers to use the framework in LEAs to—

(A) Develop and implement comprehensive and sustainable SEA-aligned systems for the equitable and effective use of assistive and instructional technology practices for students with disabilities and their families;

(B) Promote the sustained use of EBPs that improve equitable and effective use of assistive and instructional technology; and

(C) Enhance LEA evaluation and data systems to make informed decisions about the selection and effectiveness of assistive and instructional technology;

(ii) Its proposed approach to universal, general TA,[6] which must identify the intended recipients, including the type and number of recipients, that will receive the products and services under this approach to include—

(A) A plan to disseminate the framework that incorporates theories, knowledge base, and effective practices, policies, and tools that LEAs can use to develop or enhance comprehensive and sustainable systems for the equitable and effective use of assistive and instructional technology. This plan must include—

(*1*) Promoting the framework and products at national meetings or conferences;

(*2*) Publishing the framework in national newsletters or on national partners' websites;

(*3*) Promoting the framework and products to personnel preparation programs at institutions of higher education (IHEs); and

(*4*) Collaborating with federally funded resources (*e.g.,* OSEP TA Centers, Comprehensive Centers) and, where appropriate, State TA networks;

(B) A website that houses all the project's products and encourages their use; and

(C) A plan to identify and disseminate other relevant resources, including those currently housed by the Center on Inclusive Technology and Education Systems (*https://cites.cast.org/*), on evidence-based assistive and instructional practices for students with disabilities and their families;

(iii) Its proposed approach to targeted, specialized TA,[7] to support a minimum of eight LEAs across three or more States in implementing the framework, which must identify—

(A) The intended recipients, including the type(s) of LEAs, that will receive the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential LEAs to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,[8] to support a minimum of two LEAs in implementing the framework, which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of the LEAs to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity among the schools in the LEA;

(C) Its proposed plan for assisting LEAs to build or enhance training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with appropriate levels of the education system (*e.g.,* SEAs, regional TA providers, districts, schools, families) to ensure that there is communication between each level and that there are systems in place to support the effective use of assistive and instructional technology by students with disabilities and their families;

(6) Develop products and implement services that maximize efficiency. To

[6] "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[7] "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[8] "Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources and initiatives to achieve the intended project outcomes; and

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.[9] The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions to refine the framework and continuously improve the project's products and services. These questions should be related to the project's proposed logic model required in paragraph (b)(2)(ii) of the application and administrative requirements in this notice;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources of data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the annual performance report (APR) and at the end of Year 2 for the review process described under the heading, *Fourth and Fifth Years of the Project;*

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a ''third-party'' evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy-makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one- and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award, and an annual planning meeting in Washington, DC, or virtually, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two- and one-half day project directors' conference in Washington, DC, or virtually, during each year of the project period;

(iii) One annual two-day trip, or virtually, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, or virtually, during the last half of the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products from the current Center on Inclusive Technology and Education Systems (CITES) and to maintain the continuity of services during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in

[9] A ''third-party'' evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

assistive and instructional technology. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

References

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U.S. Department of Education, Office of Educational Technology. (2022). *Advancing digital equity for all: Community-based recommendations for developing effective digital equity plans to close the digital divide and enable technology-empowered learning.* U.S. Department of Education. *https://tech.ed.gov/advancing-digital-equity-for-all/.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the absolute priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $29,547,000 for the ETechM2 Program for FY 2023, of which we intend to use an estimated $700,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2024 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $700,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to the Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

a. Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

b. Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

• A ''page'' is 8.5″ × 11″, on one side only, with 1'' margins at the top, bottom, and both sides.

• Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.

• Use a font that is 12 point or larger.

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The significance of the problem or issue to be addressed by the proposed project;

(ii) The likelihood that the proposed project will result in system change or improvement;

(iii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population; and

(iv) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(b) *Quality of project services (30 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services;

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services;

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(v) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(vi) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

(iv) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(v) The extent to which the proposed project plan includes sufficient resources to conduct the project evaluation effectively.

(d) *Adequacy of resources and quality of project personnel (20 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel;

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors;

(iii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

(iv) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and

(v) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (15 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate; and

(iv) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must

ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the ETechM2 Program. These measures are:

- *Program Performance Measure 1:* The percentage of ETechM2 Program products and services judged to be of high quality by an independent review panel of experts qualified to review the substantial content of the products and services.
- *Program Performance Measure 2:* The percentage of ETechM2 Program products and services judged to be of high relevance to improving outcomes for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 3:* The percentage of ETechM2 Program products and services judged to be useful in improving results for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 4.1:* The Federal cost per unit of accessible educational materials funded by the ETechM2 Program.
- *Program Performance Measure 4.2:* The Federal cost per unit of accessible educational materials from the National Instructional Materials Access Center funded by the ETechM2 Program.
- *Program Performance Measure 4.3:* The Federal cost per unit of video description funded by the ETechM2 Program.

Program Performance Measures 1, 2, and 3 apply to projects funded under this competition, and grantees are required to submit data on Program Performance Measures 1, 2, and 3 as directed by OSEP.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in its annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Deputy Assistant Secretary. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2022–27484 Filed 12–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2022–OPEPD–0082]

Request for Information Regarding Higher Education Act (HEA) Pooled Evaluation

AGENCY: Office of Planning, Evaluation and Policy Development, Department of Education.

ACTION: Request for information.

SUMMARY: The U.S. Department of Education (Department) is requesting information in the form of written comments that may include information, research, and suggestions regarding the Department's implementation of the new authority provided to the Department in the Consolidated Appropriations Act, 2022, to reserve funding from certain programs authorized by the Higher Education Act of 1965, as amended (HEA), for the purpose of carrying out rigorous and independent evaluations and conducting data collection and analysis of such programs. The Office of Planning, Evaluation and Policy Development (OPEPD) solicits these comments to identify potential evaluation, data collection, and analysis activities that could be undertaken with these funds that would increase knowledge about, and improve administration of, programs authorized under the HEA, and build evidence of effective practices to improve student outcomes in these programs. To use and build evidence to support opportunities for students, the Department is particularly interested in evaluation, data collection, and analysis activities that can inform efforts to make higher education more inclusive and affordable and ensure pathways through higher education lead to successful careers. The Department is particularly

interested in activities aligned to Administration priorities including but not limited to strengthening community college capacity; holistic student supports; promoting postsecondary retention and completion; and strengthening alignment across institutions of higher education, K–12, and the public workforce system.

DATES: We must receive your comments on or before February 17, 2023.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at regulations.gov. However, if you require an accommodation or cannot otherwise submit your comments via *regulations.gov*, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

The Department strongly encourages you to submit any comments or attachments in Microsoft Word format. If you must submit a comment in Adobe Portable Document Format (PDF), the Department strongly encourages you to convert the PDF to "print-to-PDF" format, or to use some other commonly used searchable text format. Please do not submit the PDF in a scanned format. Using a print-to-PDF format allows the Department to electronically search and copy certain portions of your submissions to assist in the rulemaking process.

Federal eRulemaking Portal: Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "FAQ."

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should include in their comments only information about themselves that they wish to make publicly available. Commenters should not include in their comments any information that identifies other individuals or that permits readers to identify other individuals.

This is a request for information (RFI) only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice inviting applications. This RFI does not commit the Department to contract for any supply or service whatsoever. Further, we are not seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI. The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

FOR FURTHER INFORMATION CONTACT: John English, U.S. Department of Education, 400 Maryland Avenue SW Room 6W306, Washington, DC 20202. Telephone: (202) 260–5787. Email: *john.english@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

I. Background

The Department administers dozens of programs authorized by the HEA. These programs include (but are not limited to): the Student Financial Assistance Programs, including the William D. Ford Federal Direct Loan Program, the Federal Pell Grant Program, the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program, the Federal Work-Study Program (FWS), and the Supplemental Educational Grant Program (FSEOG), administered by Federal Student Aid (FSA); the Student Service programs administered by the Office of Postsecondary Education (OPE), including the Federal TRIO Programs, Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), Graduate Assistance in Areas of National Need (GAANN), and Child Care Access Means Parents in Schools (CCAMPIS); the Institutional Service programs administered by OPE that are designed to increase capacity of Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs) and other Minority-Serving institutions (MSIs) to provide high-quality education to more students; the various special focus competitions supported under the Fund for the Improvement of Postsecondary Education and administered by OPE; the International and Foreign Language Education Domestic Programs; and the Special Programs for Migrant Students and Teacher Quality Partnerships Programs administered by the Office of Elementary and Secondary Education.

As reflected in the Department's Strategic Plan and Learning Agenda (available at *https://evaluation.gov*), high-quality evaluation, data collection, and analysis are important priorities. They are key to the Department's administration of programs and essential to Congress's and the public's understanding of these programs. In addition, high-quality program evaluation can help identify effective strategies that can be disseminated and scaled more broadly. Very few HEA-authorized programs allow the Department to use program funding for evaluation, technical assistance, or data collection and analysis, resulting in missed opportunities for the Department to be able to increase knowledge of effective practices in higher education.

The Consolidated Appropriations Act, 2022 (Pub. L. 117–103), includes a new HEA Pooled Evaluation authority that authorizes the Secretary to reserve up to 0.5 percent from the appropriation for any HEA-authorized program—excluding the Pell Grant Program and Student Aid Administration—for the purpose of carrying out rigorous and independent evaluations and to collect and analyze outcome data for any program authorized by the HEA. Fiscal year (FY) 2022 funding that is reserved for HEA Pooled Evaluation is available for obligation through September 30, 2024. To date, the Department has reserved $6,904,996 under the HEA Pooled Evaluation authority. The Department must report to the House and Senate Appropriations and Authorizing Committees on the activities to be carried out under this authority, as well as the funding used and the impact on grantees, 30 days prior to obligation of funds. This authority was requested in the President's Budget in previous years but was included in the Department's appropriations legislation for the first time in FY 2022. The Administration has requested the authority again in the FY 2023 President's Budget request and hopes Congress continues to include this authority in future appropriations. The Department will contemplate comments received from this RFI when planning to use future funding it may receive from future appropriations under this authority.

The Department is committed to using this authority in a way that minimizes the impact on our grantees and students while also allocating funding to the highest priority evaluation, data collection, and analysis activities. To ensure that we harness the enormous potential of this new authority, we are, through this RFI, requesting information from the public on ideas for how best to use these funds. Our hope is to identify and consider the widest possible range of ideas. Note that we see this as a long-term effort; as such, ideas for evaluation, data collection, and analysis that are not funded initially may continue to be considered, pending the reservation of funds and whether

this authority is retained in future Department appropriations acts.

When submitting ideas for potential uses of HEA Pooled Evaluation funding, please note that funding must be used in connection with evaluation, data collection, and analysis of an HEA-authorized program, including the student financial aid programs. When responding to this RFI, please address one or more of the following questions related to your proposed activity:

1. What is the goal of this evaluation, or data collection, and analysis activity? How would this activity build evidence that supports strategies that promote student success, make education more inclusive and affordable, and ensure pathways through higher education lead to successful careers?

2. What specific research question or questions is this evaluation, data collection, and analysis activity designed to answer?

3. How would the proposed activity help evaluate, or otherwise provide important information on, an HEA program or programs?

4. If the activity proposed is an evaluation, are you aware of other evaluations on this topic? If so, please identify the relevant evaluations.

5. Does the proposed activity involve new data collection and analysis or the analysis of existing data?

6. Are there any additional benefits of conducting this activity that have not been previously identified?

We will review every comment, and the comments in response to this RFI will be publicly available on the Federal eRulemaking Portal at *www.regulations.gov.* Please note that the Department will not directly respond to comments.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: Consolidated Appropriations Act, 2022.

Roberto Rodriguez,

Assistant Secretary, Office of Planning, Evaluation, and Policy Development.

[FR Doc. 2022–27474 Filed 12–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0153]

Agency Information Collection Activities; Comment Request; State Education Agency, Local Educational Agency, and School Data Collection and Reporting Under ESEA, Title I, Part A

AGENCY: Office of Elementary and Secondary Education (OESE), 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 February 17, 2023.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0153. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W203, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Melissa Siry, 202–260–0926.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: State Education Agency, Local Educational Agency, and School Data Collection and Reporting under ESEA, Title I, Part A.

OMB Control Number: 1810–0581.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 17,022.

Total Estimated Number of Annual Burden Hours: 293,152.

Abstract: Title I, Part A (Title I) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA), contains several provisions that require State educational agencies (SEAs), local educational agencies (LEAs), and schools to collect and disseminate information. Thus, SEAs, LEAs, and schools collect and

disseminate the information to carry out these reporting requirements. The collected information facilitates compliance with statutory requirements and to provides information to school communities (including parents), LEAs, SEAs and the U.S. Department of Education (the Department) regarding activities required under Title I of the ESEA. The Paperwork Reduction Act (PRA) covers these activities. However, the present information collection authorization is due to expire. Therefore, the Department requests an extension of the currently approved information collection (1810–0581).

Dated: December 14, 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. 2022–27432 Filed 12–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; State Personnel Development Grants

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) for fiscal year (FY) 2023 for the State Personnel Development Grants (SPDG) program, Assistance Listing Number 84.323A. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: December 19, 2022.

Deadline for Transmittal of Applications: March 6, 2023.

Pre-Application Webinar Information: No later than December 27, 2022, the Office of Special Education and Rehabilitative Services will post pre-recorded informational webinars designed to provide technical assistance to interested applicants. The webinars may be found at *https://www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

Deadline for Intergovernmental Review: May 3, 2023.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.* Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Coffey, U.S. Department of Education, 400 Maryland Avenue SW, Room 5161, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6673. Email: *jennifer.coffey@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to assist State educational agencies (SEAs) in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

Priorities: This notice contains two absolute priorities and one competitive preference priority. In accordance with 34 CFR 75.105(b)(1), Absolute Priority 1 is from the notice of final priorities and definitions (NFP) published in the **Federal Register** on August 2, 2012 (77 FR 45944) (2012 NFP). In accordance with 34 CFR 75.105(b)(2)(iv), Absolute Priority 2 is from sections 651 through 655 of the Individuals with Disabilities Education Act (IDEA), as amended by the Every Student Succeeds Act (ESSA). The competitive preference priority is from the NFP for this program published in the **Federal Register** on June 10, 2022 (87 FR 35415) (2022 NFP).

Absolute Priorities: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet both Absolute Priorities 1 and 2.

These priorities are:

Absolute Priority 1: Effective and Efficient Delivery of Professional Development.

The Department establishes a priority to assist SEAs in reforming and improving their systems for personnel (as that term is defined in section 651(b) of IDEA) preparation and professional development of individuals providing early intervention, educational, and transition services in order to improve results for children with disabilities.

In order to meet this priority an applicant must demonstrate in the SPDG State Plan it submits as part of its application under section 653(a)(2) of IDEA that its proposed project will—

(1) Use evidence-based (as defined in this notice) professional development practices that will increase implementation of evidence-based practices and result in improved outcomes for children with disabilities;

(2) Provide ongoing assistance to personnel receiving SPDG-supported professional development that supports the implementation of evidence-based practices with fidelity (as defined in this notice); and

(3) Use technology to more efficiently and effectively provide ongoing professional development to personnel, including to personnel in rural areas and to other populations, such as personnel in urban or high-need local educational agencies (LEAs) (as defined in this notice).

Absolute Priority 2: State Personnel Development Grants.

Statutory Requirements. To meet this priority, an applicant must meet the following statutory requirements:

1. State Personnel Development Plan.

An applicant must submit a State Personnel Development Plan that identifies and addresses the State and local needs for the personnel preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that—

(a) Is designed to enable the State to meet the requirements of section 612(a)(14) of IDEA, as amended by the ESSA, and section 635(a)(8) and (9) of IDEA;

(b) Is based on an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel who serve infants, toddlers, preschoolers, and children with disabilities within the State, including—

(1) Current and anticipated personnel vacancies and shortages; and

(2) The number of preservice and inservice programs;

(c) Is integrated and aligned, to the maximum extent possible, with State plans and activities under the Elementary and Secondary Education Act of 1965, as amended (ESEA); the Rehabilitation Act of 1973, as amended;

and the Higher Education Act of 1965, as amended (HEA);

(d) Describes a partnership agreement that is in effect for the period of the grant, which agreement must specify—

(1) The nature and extent of the partnership described in accordance with section 652(b) of IDEA and the respective roles of each member of the partnership, including, if applicable, an individual, entity, or agency other than the SEA that has the responsibility under State law for teacher preparation and certification; and

(2) How the SEA will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;

(e) Describes how the strategies and activities the SEA uses to address identified professional development and personnel needs will be coordinated with activities supported with other public resources (including funds provided under Part B and Part C of IDEA and retained for use at the State level for personnel and professional development purposes) and private resources;

(f) Describes how the SEA will align its personnel development plan with the plan and application submitted under sections 1111 and 2101(d), respectively, of the ESEA;

(g) Describes strategies the SEA will use to address the identified professional development and personnel needs and how such strategies will be implemented, including—

(1) A description of the programs and activities that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of, infants, toddlers, preschoolers, and children with disabilities; and

(2) How such strategies will be integrated, to the maximum extent possible, with other activities supported by grants funded under section 662 of IDEA, as amended by the ESSA;

(h) Provides an assurance that the SEA will provide technical assistance to LEAs to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities;

(i) Provides an assurance that the SEA will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving such children;

(j) Describes how the SEA will recruit and retain teachers who meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA, and other qualified personnel in geographic areas of greatest need;

(k) Describes the steps the SEA will take to ensure that children from low-income backgrounds and minority children are not taught at higher rates by teachers who do not meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA; and

(l) Describes how the SEA will assess, on a regular basis, the extent to which the strategies implemented have been effective in meeting the performance goals described in section 612(a)(15) of IDEA, as amended by the ESSA.

2. Partnerships.

(a) Required Partners.

Applicants must establish a partnership with LEAs and other State agencies involved in, or concerned with, the education of children with disabilities, including—

(1) Not less than one institution of higher education (IHE);

(2) The State agencies responsible for administering Part C of IDEA, early education, childcare, and vocational rehabilitation programs; and

(3) In accordance with section 652(b)(3) of IDEA, if State law assigns responsibility for teacher preparation and certification to an individual, entity, or agency other than the SEA, such individual, entity, or agency. The SEA must ensure that any activities it carries out under this program that are within such partner's jurisdiction (which may include activities described in section 654(b) of IDEA) are carried out by that partner.

(b) Other Partners.

An SEA must work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—

(1) The Governor;

(2) Parents of children with disabilities ages birth through 26;

(3) Parents of nondisabled children ages birth through 26;

(4) Individuals with disabilities;

(5) Parent training and information centers or community parent resource centers funded under sections 671 and 672 of IDEA, respectively;

(6) Community based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

(7) Personnel as defined in section 651(b) of IDEA;

(8) The State advisory panel established under Part B of IDEA;

(9) The State interagency coordinating council established under Part C of IDEA;

(10) Individuals knowledgeable about vocational education;

(11) The State agency for higher education;

(12) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice;

(13) Other providers of professional development that work with infants, toddlers, preschoolers, and children with disabilities; and

(14) Other individuals.

3. Use of Funds.

(a) Professional Development Activities—Each SEA that receives a grant under this program must use the grant funds to support activities in accordance with the State's Personnel Development Plan, including one or more of the following:

(1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that—

(i) Provide teacher mentoring, team teaching, reduced class schedules and caseloads, and intensive professional development;

(ii) Use standards or assessments for guiding beginning teachers that are consistent with challenging State academic achievement standards and with the requirements for professional development, as defined in section 8101 of the ESEA; and

(iii) Encourage collaborative and consultative models of providing early intervention, special education, and related services.

(2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology—

(i) Into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decision making, school improvement efforts, and accountability;

(ii) To enhance learning by children with disabilities; and

(iii) To effectively communicate with parents.

(3) Providing professional development activities that—

(i) Improve the knowledge of special education and regular education teachers concerning—

(A) The academic and developmental or functional needs of students with disabilities; or

(B) Effective instructional strategies, methods, and skills, and the use of State academic content standards and student

academic achievement and functional standards, and State assessments, to improve teaching practices and student academic achievement;

(ii) Improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices, and that—

(A) Provide training in how to teach and address the needs of children with different learning styles and children who are limited English proficient;

(B) Involve collaborative groups of teachers, administrators, and, in appropriate cases, related services personnel;

(C) Provide training in methods of—

(*1*) Positive behavioral interventions and supports to improve student behavior in the classroom;

(*2*) Scientifically based reading instruction, including early literacy instruction;

(*3*) Early and appropriate interventions to identify and help children with disabilities;

(*4*) Effective instruction for children with low-incidence disabilities;

(*5*) Successful transitioning to postsecondary opportunities; and

(*6*) Using classroom-based techniques to assist children prior to referral for special education;

(D) Provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and limited English proficient children with disabilities;

(E) Provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate individualized education programs (IEPs); and

(F) Provide training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving those students;

(iii) Train administrators, principals, and other relevant school personnel in conducting effective IEP meetings; and

(iv) Train early intervention, preschool, and related services providers, and other relevant school personnel in conducting effective individualized family service plan (IFSP) meetings.

(4) Developing and implementing initiatives to promote the recruitment and retention of special education teachers who meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA, particularly initiatives that have proven effective in recruiting and retaining teachers, including programs that provide—

(i) Teacher mentoring from exemplary special education teachers, principals, or superintendents;

(ii) Induction and support for special education teachers during their first three years of employment as teachers; or

(iii) Incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of personnel who serve children with disabilities, such as—

(i) Innovative professional development programs (which may be provided through partnerships that include IHEs), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, which must be consistent with the definition of professional development in section 8101 of the ESEA; and

(ii) The development and use of proven, cost effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

(6) Carrying out programs and activities that are designed to improve the quality of early intervention personnel, including paraprofessionals and primary referral sources, such as—

(i) Professional development programs to improve the delivery of early intervention services;

(ii) Initiatives to promote the recruitment and retention of early intervention personnel; and

(iii) Interagency activities to ensure that early intervention personnel are adequately prepared and trained.

(b) Other Activities—Each SEA that receives a grant under this program must use the grant funds to support activities in accordance with the State's Personnel Development Plan, including one or more of the following:

(1) Reforming special education and regular education teacher certification (including re-certification) or licensing requirements to ensure that—

(i) Special education and regular education teachers have—

(A) The training and information necessary to address the full range of needs of children with disabilities across disability categories; and

(B) The necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

(ii) Special education and regular education teacher certification (including re-certification) or licensing requirements are aligned with challenging State academic content standards; and

(iii) Special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students with disabilities meet challenging State student academic achievement and functional standards.

(2) Programs that establish, expand, or improve alternative routes for State certification of special education teachers for individuals with a baccalaureate or master's degree who meet the qualifications described in section 612(a)(14)(C)of IDEA, as amended by the ESSA, including mid-career professionals from other occupations, paraprofessionals, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective special education teachers.

(3) Teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(4) Developing and implementing mechanisms to assist LEAs and schools in effectively recruiting and retaining special education teachers who meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensure, consistent with title II of the HEA (20 U.S.C. 1021 *et seq.*).

(6) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this absolute priority or developed using funds awarded under the SPDG competition may lead to the weakening of any State teacher certification or licensing requirement.

(7) Assisting LEAs to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(8) Developing, or assisting LEAs in developing, merit-based performance systems and strategies that provide

differential and bonus pay for special education teachers.

(9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement and functional standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities.

(10) When applicable, coordinating with, and expanding centers established under section 2113(c)(18) of the ESEA, as amended by the No Child Left Behind Act of 2002, to benefit special education teachers.

(c) Contracts and Subgrants—An SEA that receives a grant under this program—

(1) Must award contracts or subgrants to LEAs, IHEs, parent training and information centers, or community parent resource centers, as appropriate, to carry out the State Personnel Development Plan; and

(2) May award contracts and subgrants to other public and private entities, including the State lead agency (LA) (as defined in this notice) under Part C of IDEA, to carry out the State Personnel Development Plan.

(d) Use of Funds for Professional Development—An SEA that receives a grant under this program must use—

(1) Not less than 90 percent of the funds the SEA receives under the grant for any fiscal year for the Professional Development Activities described in paragraph (a); and

(2) Not more than 10 percent of the funds the SEA receives under the grant for any fiscal year for the Other Activities described in paragraph (b).

Competitive Preference Priority: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional 3 points to an application that meets the competitive preference priority. An applicant is not required to address the competitive preference priority.

This priority is:

Supporting an IDEA Part C Comprehensive System of Personnel Development (CSPD) (0 or 3 points).

The purpose of this priority is to fund projects designed to enable the State to meet the CSPD requirements of section 635(a)(8) and (9) of the IDEA. In order to be considered for a grant under this priority, if the SEA is not the State LA for IDEA Part C, an SEA must establish a partnership, consistent with IDEA section 652(b)(1)(B), with the State LA responsible for administering IDEA Part C. Consistent with IDEA section 635(a)(8) this priority will help improve the capacity of States' IDEA Part C personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State.

The CSPD must include, consistent with 34 CFR 303.118(a): (1) Training personnel to implement innovative strategies and activities for the recruitment and retention of early education service providers; (2) Promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and (3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under Part C of IDEA to a preschool program under section 619 of IDEA, Head Start, Early Head Start, an elementary school program under Part B of IDEA, or another appropriate program.

The IDEA Part C CSPD may also include, consistent with 34 CFR 303.118(b): (1) Training personnel to work in rural and urban areas; (2) Training personnel in the social and emotional development of young children; (3) Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and (4) Training personnel who provide services under IDEA Part C using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable. The SEA must include in its State plan how it will partner with the State LA, if the SEA is not the State LA for IDEA Part C, to implement these aspects of the CSPD. The description of the partnership must indicate the amount and percentage of SPDG funding that will support implementation of the CSPD over the project period and how funding will complement current efforts and investments (Federal IDEA Part C appropriations and State and local funds) to implement the CSPD. The description must also describe the extent to which funds will be used on activities to increase and train personnel working with infants and toddlers and their families that have historically been underserved by Part C.

Note: To carry out the State plan under section 653 of IDEA, as described in its application, the SEA may award contracts, subgrants, or both to other public and private entities, including, if appropriate, the State LA under Part C of IDEA.

Program Requirements: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, the following program requirements apply.

Projects funded under this program must—

(a) Budget for a three-day project directors' meeting in Washington, DC, or virtually, during each year of the project;

(b) Budget $4,000 annually for support of the SPDG program website currently administered by the University of Oregon (*www.signetwork.org*); and

(c) If a project receiving assistance under this program authority maintains a website, include relevant information and documents in a form that meets a government or industry-recognized standard for accessibility.

Definitions: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, the following definitions apply to this competition. We provide the source of the definitions in parentheses.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes. (34 CFR 77.1)

Evidence-based means, for purposes of Absolute Priority 1, practices for which there is strong evidence or moderate evidence of effectiveness (2012 NFP); and for purposes of Absolute Priority 2, the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale (34 CFR 77.1).

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design

studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment. (34 CFR 77.1)

Fidelity means the delivery of instruction in the way in which it was designed to be delivered. (2012 NFP)

High-need LEA means, in accordance with section 2102(3) of the ESEA, an LEA—

(a) That serves not fewer than 10,000 children from families with incomes below the poverty line (as that term is defined in section 8101(41) of the ESEA), or for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line; and

(b) For which there is (1) a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach, or (2) a high percentage of teachers with emergency, provisional, or temporary certification or licensing. (2012 NFP)

Lead agency means the agency designated by the State's Governor under section 635(a)(10) of IDEA and 34 CFR 303.120 that receives funds under section 643 of IDEA to administer the State's responsibilities under part C of IDEA. (34 CFR 303.22)

Local educational agency (LEA) means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools. (Section 602(19) of IDEA (20 U.S.C. 1401(19)))

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1)

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D). (34 CFR 77.1)

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1)

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following—

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome. (34 CFR 77.1)

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks. (34 CFR 77.1)

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1)

State educational agency means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law. (Section 602(32) of IDEA (20 U.S.C. 1401(32)))

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a

relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following—

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook, or otherwise assessed by the Department using version 4.1 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement. (34 CFR 77.1)

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation. (34 CFR 77.1)

Note: The What Works Clearinghouse Procedures and Standards Handbook (Version 4.1), as well as the more recent What Works Clearinghouse Handbooks released in August 2022 (Version 5.0), are available at *https://ies.ed.gov/ncee/wwc/Handbooks.*

Program Authority: 20 U.S.C. 1451–1455.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The 2012 NFP. (e) The 2022 NFP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $38,630,000 for the SPDG program for FY 2023, of which we intend to use an estimated $12,891,338 for awards under this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2024 from the list of unfunded applications from this competition.

Estimated Range of Awards: $500,000–$2,100,000 (for the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico). States may not receive less than $500,000 in each year of the grant and must submit a budget in their application for not less than $500,000 in each year of the grant. In the case of outlying areas (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands), awards will be not less than $80,000.

Note: We will set the amount of each award after considering—

(1) The amount of funds available for making the grants;

(2) The relative population of the State or outlying area;

(3) The types of activities proposed by the State or outlying area;

(4) The alignment of proposed activities with section 612(a)(14) of IDEA, as amended by the ESSA;

(5) The alignment of proposed activities with State plans and applications submitted under sections 1111 and 2101(d), respectively, of the ESEA; and

(6) The use, as appropriate, of scientifically based research and activities.

Using the same considerations, the Secretary funded these selected applications for FY 2022 at the following levels:

State	FY 2022 funding amount
Alabama	$1,139,436
Kansas	1,174,424
Missouri	1,247,040
Ohio	1,850,500

Estimated Average Size of Awards: $1,000,000 excluding the outlying areas.

Estimated Number of Awards: 11.

Note: The Department is not bound by any estimates in this notice.

Project Period: Not less than one year and not more than five years.

III. Eligibility Information

1. *Eligible Applicants:* An SEA of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

Note: Public Law 95–134, which permits the consolidation of grants to the outlying areas, does not apply to funds received under this competition.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *https://www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition must award contracts and

subgrants as described in Absolute Priority 2 (paragraph (3)(C) under Statutory Requirements, Use of Funds). See section 654(c) of IDEA.

4. *Other General Requirements:* Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (20 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(ii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(iii) The likelihood that the proposed project will result in system change or improvement.

(b) *Quality of the project design (25 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(v) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(c) *Quality of the project personnel (10 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel.

(d) *Adequacy of resources and management plan (20 points).*

(1) The Secretary considers the adequacy of resources and management plan for the proposed project.

(2) In determining the adequacy of resources and management plan for the proposed project, the Secretary considers the following factors:

(i) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(ii) The extent to which the budget is adequate to support the proposed project.

(iii) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(v) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(e) *Quality of the project evaluation (25 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in

reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/*

fund/grant/apply/appforms/appforms.html.

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the SPDG program. These measures assess the extent to which—

- Projects use professional development practices supported by evidence to support the attainment of identified competencies;
- Participants in SPDG professional development demonstrate improvement in implementation of SPDG-supported practices over time;
- Projects use SPDG professional development funds to provide activities designed to sustain the use of SPDG-supported practices; and
- Projects improve outcomes for children with disabilities.

Each grantee funded under this competition must collect and annually report data related to its performance on these measures in the project's annual and final performance report to the Department in accordance with section 653(d) of IDEA and 34 CFR 75.590. Applicants should discuss in the application narrative how they propose to collect performance data for these measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Deputy Assistant Secretary. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2022–27367 Filed 12–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0123]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Liquidation Extension Request Template

AGENCY: Office of Elementary and Secondary Education (OESE), 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 18, 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 Jennifer Timmons, 202–987–1295.

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: Liquidation Extension Request Template.

OMB Control Number: 1810–0771.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 104.

Total Estimated Number of Annual Burden Hours: 2,080.

Abstract: This is a request for approval for an extension of the OMB approved 1810–0771 collection by the Office of State and Grantee Relations (SGR) in the Office of Elementary and Secondary Education (OESE) at the U.S. Department of Education (ED) for the Elementary and Secondary School Education Relief (ESSER) fund and the Governor's Emergency Education Relief (GEER) fund authorized by the Coronavirus Aid, Relief and Economic Security Act of 2020, Public Law 116–136, Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES–ESSER (ALN 84.425D) program is a $13 billion formula grant program allocated to State educational agencies (SEA) for use in responding to

and recovering from the COVID–19 pandemic. The CARES–GEER (ALN 84.425C) program is a $2.9 billion formula grant program allocated to Governors for the purpose of providing local educational agencies (LEAs), institutions of higher education (IHEs), and other education related entities with emergency assistance to address the impact of the coronavirus pandemic. A liquidation extension request will be required in order for an SEA or Governor's office to receive approval to liquidate funds beyond the 120-day liquidation period following the period of availability of September 30, 2022. The Department will use the grantee's request to review and recommend approval for a liquidation extension request.

Dated: December 13, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–27370 Filed 12–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—State Technical Assistance Projects To Improve Services and Results for DeafBlind Children and National Technical Assistance and Dissemination Center for DeafBlind Children

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2023 for Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—State Technical Assistance Projects to Improve Services and Results for DeafBlind Children and National Technical Assistance and Dissemination Center for DeafBlind Children, Assistance Listing Number (ALN) 84.326T. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: December 19, 2022.

Deadline for Transmittal of Applications: February 17, 2023.

Deadline for Intergovernmental Review: April 18, 2023.

Pre-Application Webinar Information: No later than December 27, 2022, OSERS will post pre-recorded informational webinars designed to provide technical assistance (TA) to interested applicants. The webinars may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.* Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Susan Weigert, U.S. Department of Education, 400 Maryland Avenue SW, Room 5076, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6522. Email: *susan.weigert@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Two Department programs fund this competition: the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (TA&D) program and the Personnel Development to Improve Services and Results for Children with Disabilities (PD) program.

The purpose of the TA&D program is to promote academic achievement and improve results for children with disabilities by providing TA, supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research. The purposes of the PD program are to (1) help address State-identified needs for personnel preparation in special education, early intervention, related services, and general education to work with children, including infants, toddlers, and youth with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research, to be successful in serving those children.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 662(c)(2), 663(c)(8)(A) and (C), and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1462, 1463, and 1481)).

Absolute Priority: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

State Technical Assistance Projects to Improve Services and Results for DeafBlind *Children and a National Technical Assistance and Dissemination Center for* DeafBlind *Children.*

Background:

DeafBlind children [1] have complex needs and are among the most diverse groups of learners served under IDEA. Approximately 85 percent of DeafBlind children also have additional physical, learning, or cognitive disabilities (National Center on Deaf-Blindness, 2022). As a result, DeafBlind children face a unique set of challenges not commonly faced by their peers with, and without, disabilities. Providing equitable educational opportunities for these students involves a range of expertise and resources to prepare and support diverse teams of families and personnel and to ensure accessible materials and environments. Teachers and early interventionists often require assistance developing strategies to instruct DeafBlind children in concept-development, communication, and early literacy. In addition, because 62 percent of DeafBlind children have additional orthopedic impairments limiting use of their hands for communication or for purposes of engaging in learning activities, families, caregivers, teachers, and service providers often require consultation on alternative and augmentative communication options to ensure such students can engage in instructional activities (Karvonen et al., 2021). Transition planning for DeafBlind children should occur as an ongoing, person-centered process with family involvement and consideration

[1] For purposes of this notice, the term 'DeafBlind children' refers to infants, toddlers, children, youth, and young adults (ages birth through 21) who are deaf-blind.

of a student's abilities, strengths, and preferences. Secondary transition planning for DeafBlind children should target multiple domains, including vocational education and planning, postsecondary educational planning, independent or supported living, and community participation (Nelson & Bruce, 2022; Zatta & McGinnty, 2016). Consequently, State educational agencies (SEAs), lead agencies(LAs) under Part C of IDEA, local educational agencies (LEAs), early intervention services (EIS) providers, teachers, service providers, State TA providers, and families need significant support to address the intensive and diverse educational, related services, transitional, and early intervention needs of DeafBlind children to ensure that these children are prepared for lifelong learning and successful transition to postsecondary settings.

The purpose of this priority is to establish and operate State Technical Assistance Projects to Improve Services and Results for DeafBlind Children and a National Technical Assistance and Dissemination Center for DeafBlind Children that will provide TA and support to the State projects.

The State Technical Assistance Projects to Improve Services and Results for DeafBlind Children (State DeafBlind Projects) will help SEAs, Part C LAs, LEAs, including charter school LEAs, EIS providers, teachers, service providers, and families to address the educational, related services, transitional, and early intervention needs of DeafBlind children. For more than 30 years, the Office of Special Education Programs (OSEP) has supported State DeafBlind Projects to improve support to local schools and agencies within States that are serving DeafBlind children and their families. The State DeafBlind Projects are designed to increase access to, and progress in, the grade-level general education curriculum, including grade-level or alternate academic achievement standards, for DeafBlind children and improve their communication skills with a goal of supporting lifelong learning, including postsecondary education and employment readiness.

The National Technical Assistance and Dissemination Center for DeafBlind Children (National Center) will provide TA and support to the State DeafBlind Projects in addressing these needs. This support includes providing specialized TA, training, centralized product development and dissemination, and informational services to agencies and organizations, professionals, families, and others involved in providing services to DeafBlind Children.

For the purposes of this competition, the Department has separated the absolute priority into two focus areas: State DeafBlind Projects (Focus Area A) and a National Center (Focus Area B). Applicants must identify whether they are applying under Focus Area A, Focus Area B, or both.

Note: Each focus area will be reviewed and scored separately if an applicant is applying under both focus areas. As the program and application requirements for the two focus areas are different, applicants must ensure that they have met all applicable requirements for each focus area.

State Technical Assistance Projects to Improve Services and Results for DeafBlind Children (Focus Area A).

This priority will fund discretionary grants to establish and operate State Technical Assistance Projects to Improve Services and Results for DeafBlind. The State DeafBlind Projects are expected to work closely with SEAs, LAs, LEAs, EIS providers, teachers, service providers, and families to address the intensive educational, related services, transitional, and early intervention needs of DeafBlind children, to ensure that these children have meaningful access to the general education curriculum and can successfully transition to postsecondary education or employment. In partnership with the National Center (Focus Area B), the provision of targeted and intensive TA by State DeafBlind Projects will ensure that family members and caregivers, EIS providers, special and general education teachers, and service providers have access to specialized training and tools needed to support the educational, communication, and socialization needs of DeafBlind children.

To support the communication needs of DeafBlind children, specialized personnel called ''interveners'' [2] are often employed to help these children gather information, develop concepts, establish relationships, and develop and expand upon their communication skills (National Center on Deaf-Blindness, 2022). State DeafBlind Projects are encouraged to support the training and certification of such personnel in both early intervention and classroom environments by collaborating with and implementing training resources developed by the National Center.

Under Focus Area A, the Department will fund discretionary grants to establish and operate State DeafBlind Technical Assistance Projects (State DeafBlind Projects) to improve services and results for DeafBlind children. Grants under Focus Area A are available to support projects in all States, including the District of Columbia, Puerto Rico, the outlying areas, and the freely associated States. A grant may be awarded to an entity to serve a single State or a multi-State consortium. Funds awarded under this priority may not be used to provide direct early intervention services under Part C of IDEA or direct special education and related services under Part B of IDEA.

State DeafBlind Projects funded under this priority must achieve, at a minimum, the following expected outcomes:

(a) Provide TA and training on improving outcomes to personnel who serve DeafBlind children;

(b) Increase early identification and referral of DeafBlind children for appropriate services and supports;

(c) Facilitate emerging and developing literacy and numeracy for DeafBlind children by promoting access to the grade level general education curriculum, including grade-level or alternate academic achievement standards, through the use of high-quality practices;

(d) Expand support to DeafBlind children and their families during the transition to post-secondary education or employment.

(e) Increase support to families of DeafBlind children to facilitate their involvement in early intervention, education, and transition opportunities;

(f) In collaboration with the National Center, collect information to provide a State-by-State needs assessment; and

(g) For States that use, or plan to use, certified interveners, projects in those States will collaborate with the National Center to increase the number of qualified interveners within the State who have demonstrated skills to support and improve the educational, social, and communication outcomes of DeafBlind children.

In addition to these programmatic requirements, to be considered for funding under Focus Area A of this priority, applicants must meet the application and administrative requirements in this priority, which are:

[2] The term ''intervener'' is used in many States to refer to a specially trained communication partner who supports a DeafBlind child by providing access to information and communication and facilitating the development of social and emotional well-being for DeafBlind children. In educational environments, intervener services are provided by an individual, often a paraeducator, who has received specialized training in deaf-blindness and the process of intervention. An intervener provides consistent one-to-one support to a DeafBlind child (ages 3 through 21 or as mandated by State regulations) throughout the instructional day (National Center on Deaf-Blindness, 2022).

(a) Demonstrate, in the narrative section of the application under ''Significance of the project,'' how the proposed project will—

(1) Provide EIS providers, special education teachers, general education teachers, related services personnel, and SEA, LEA, LA, and EIS administrators with the training and information needed to develop and implement individualized supports to ensure that DeafBlind children have equitable access to, and make progress in, the grade level general education curriculum, including grade-level or alternate academic achievement standards, and have equitable access to high-quality educational opportunities that lead to successful transitions to postsecondary education or employment; and

(2) In conjunction with OSEP-funded State Parent Training and Information Centers (PTIs), ensure that a diverse group of family members and caregivers of DeafBlind children have the training and information needed to establish, maintain, and improve productive partnerships with teachers, school administrators, and service providers.

To address the requirements of paragraphs (1) and (2) of this section, the applicant must—

(i) Present applicable State, regional, or local data (and, in the case of an application for a consortium, data for each State that the consortium will serve) demonstrating training and information needs of EIS providers, special and general education teachers, related services personnel, and family members and caregivers identified in paragraphs (1) and (2) of this section, taking into account the needs of a diverse population and geographical distribution of DeafBlind children;

(ii) Demonstrate knowledge of current educational issues and policy initiatives in educating DeafBlind children, including any State-specific policy initiatives, and explain how the applicant will support their implementation; and

(iii) Describe the applicant's approach to improving educational, social, and communication outcomes for DeafBlind children, and indicate the likely magnitude or importance of these outcomes.

(b) Demonstrate, in the narrative section of the application under ''Quality of the project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of under-represented populations;

(2) Identify the needs of the intended recipients for TA and information;

(3) Ensure that services meet the needs of the intended recipients of the grant and that any proposed products are first approved by the OSEP project officer and then developed in coordination with the National Center;

(4) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide measurable intended project outcomes;

(5) Be based on current research and make use of high-quality practices. To meet this requirement, the applicant must describe—

(i) The current research and high-quality practices that ensure access to the grade-level general education curriculum, including grade-level or alternate academic achievement standards, and high-quality educational opportunities that lead to successful transitions to postsecondary education or employment;

(ii) How the proposed project will provide culturally and linguistically responsive, high-quality training and TA to the family members and caregivers of DeafBlind children and TA and professional development to practitioners identified in paragraph (a) of the application and administrative requirements in this section; and

(iii) The process the proposed project will use to incorporate current research and high-quality practices in the development and delivery of its products and services.

(6) Provide services that are of sufficient quality, intensity, and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed approach to universal, general TA,[3] including the intended recipients of products and services;

(ii) Its proposed approach to targeted, specialized TA,[4] including the intended recipients of products and services; and

(iii) Its proposed approach to intensive, sustained TA,[5] including the intended recipients of products and services. To address this requirement, the applicant must describe—

(A) Its proposed approach to collaboration with SEAs, LEAs, LAs, EIS providers, PTIs, and other relevant entities, as appropriate, to support project initiatives, to leverage their available resources, and to develop supports for families, and to provide TA and training to teachers, EIS providers, and other service providers;

(B) Its proposed plan for assisting LEAs and EIS providers to address the needs of the diverse population of DeafBlind children based on best practices and current research on effective training and professional development; and

(C) Its proposed plan for working with individuals and entities at each level of the education system (*e.g.,* SEAs, LEAs, LAs, EIS providers, schools, and families) to promote communication among the different groups and ensure that systems are in place to support the equitable use of high-quality practices for educating DeafBlind children.

(7) Implement services in collaboration with the National Center to meet the TA objectives within the State(s) served. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration;

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(iv) How the applicant will facilitate States' ability to use and benefit from the National Center's initiatives, products, and TA, including those initiatives that cross State boundaries.

(c) Demonstrate, in the narrative section of the application under ''Quality of the evaluation plan,'' how the proposed project will collect and analyze data on specific and measurable goals, objectives, and outcomes of the project. To address this requirement, the applicant must describe—

[3] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[4] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[5] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(1) The proposed evaluation methodologies, including instruments, data collection methods, and possible analyses;

(2) The proposed standards or targets for determining interim and final outcomes;

(3) The proposed methods for collecting data on implementation supports and fidelity of implementation;

(4) How the proposed project will apply evaluation results to examine and improve the project's implementation strategies and the progress toward achieving the project's intended outcomes; and

(5) How the methods of evaluation will produce quantitative and qualitative data that demonstrate whether the project has achieved its intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of project resources,'' how the proposed project will—

(1) Encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) Ensure that the proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) Ensure that the applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) Ensure that the proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how the proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(1) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as appropriate;

(2) Timelines and milestones for accomplishing the project tasks;

(3) How key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(4) How the proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients;

(5) How the proposed project will benefit from a diversity of perspectives, including families, educators, TA providers, researchers, and policy makers, among others, in its development and operation;

(6) If applicable, how the States within a consortium will receive appropriate services; and

(7) If applicable, how the proposed project will ensure that the distribution of resources is equitable within a consortium.

(f) In the narrative under ''Required project assurances'' or appendices as directed, meet the following application requirements—

(1) Include, in appendix A, charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one-day planning meeting preceding each OSEP-hosted project directors' conference held in Washington, DC, or virtually, in coordination with the National Center;

(ii) A three- and one-half-day project directors' conference in Washington, DC, or virtually, during each year of the project period; and

(3) If the project maintains a website, ensure that it will be of high quality, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility.

Note: States are invited to form consortia to apply for funding under Focus Area A of this priority in accordance with the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.127 to 75.129. A consortium may be comprised of any group of States.

National Technical Assistance and Dissemination Center for DeafBlind *Children (Focus Area B).*

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Technical Assistance and Dissemination Center for DeafBlind Children. The National Center will work with the State DeafBlind Projects to ensure that family members and caregivers, EIS providers, special and general education teachers, interveners, and related services personnel have access to the specialized training and tools needed to support the educational, communication, and socialization needs of DeafBlind children.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Expand communication and coordination across the State DeafBlind Project TA network to improve outcomes for DeafBlind children;

(b) Expand the development and use of training modules to support personnel development of teachers, related service providers, and interveners;

(c) Expand the body of knowledge and use of high-quality practices to facilitate emerging and developing literacy and numeracy for DeafBlind children;

(d) Facilitate increased family involvement in the early intervention, education, and transition opportunities for the diverse population of DeafBlind children by disseminating culturally and linguistically responsive information, and providing equitable opportunities for networking and engagement with DeafBlind family organizations;

(e) Collaborate with the State DeafBlind Projects to facilitate the early identification of children with dual-sensory impairment in the State, to ensure that their families, teachers, and other service providers can receive appropriate services provided by the State DeafBlind Projects; and

(f) Collaborate with the State DeafBlind Projects to provide a State-by-State needs assessment that includes disability and demographic information and trends, to ensure that the State DeafBlind Projects and those they serve receive high-quality, appropriate resources and services.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the current and emerging needs of State DeafBlind Projects, SEAs, LEAs, LAs, EIS providers, and organizations serving DeafBlind children to ensure they have the training and information needed to implement and sustain high-quality, equitable, effective, and efficient systems that have the implementation supports in place to ensure DeafBlind children have access to and progress in the grade-level general education curriculum, including grade-level or alternate academic achievement standards, and have access to high-quality educational and early intervention and developmental opportunities that lead to successful transitions to postsecondary education or employment. To meet this requirement the applicant must—

(i) Present applicable data demonstrating current State capacity to deliver high-quality IDEA services for DeafBlind children, and ensure they have access to and progress in the grade-level general education curriculum,

including grade-level or alternate academic achievement standards, and have access to high-quality educational opportunities that lead to successful transitions to postsecondary education or employment; and

(ii) Demonstrate knowledge of current issues and ongoing challenges in ensuring DeafBlind children have equitable access to and progress in the grade-level general education curriculum, including grade-level or alternate academic achievement standards, and that they have access to high-quality early-intervention and educational opportunities that lead to successful transitions to postsecondary education or employment; and

(2) Improve educational outcomes for DeafBlind children, including those from under-represented populations, and indicate the likely magnitude or importance of these outcomes.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project.

(3) Use a conceptual framework (and provide a copy in appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of evidence-based[6] practices (EBPs). To meet this requirement, the applicant must describe—

(i) The current research and high-quality practices on ensuring access to the grade-level general education curriculum, including grade-level or alternate academic achievement standards, and high-quality early intervention and educational opportunities that lead to successful transitions to postsecondary education or employment;

(ii) How the project will provide high-quality TA products designed to address the needs of the diverse population of family members and caregivers of DeafBlind children and TA and professional development products designed for diverse practitioners identified in paragraph (a) of the application and administrative requirements in this section;

(iii) The process the proposed project will use to incorporate current research and high-quality practices in the development and delivery of its products and services;

(iv) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(v) How the proposed project will incorporate current research and practices in the development and delivery of its products and services.

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop and expand the knowledge base pertaining to the development of communicative competence in DeafBlind children;

(ii) How the proposed project will collaborate with higher-education institutions to incorporate information on best practices to develop products and services which promote high-quality instructional interventions designed to improve access to the general education curriculum by DeafBlind children;

(iii) How the proposed project will collaborate with the OSEP-funded National Center on Educational Outcomes to incorporate information on including DeafBlind children who have significant cognitive disabilities in State- and district-wide assessment systems;

(iv) Its proposed approach to universal, general TA,[7] which must identify the intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the expected impact of those products and services under this approach;

(v) Its proposed approach to targeted, specialized TA,[8] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the expected impact of those products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients (*i.e.,* State Technical Assistance Project staff) to work with the project, assessing, at a minimum, their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the local district and EIS program level; and

(vi) Its proposed approach to intensive, sustained TA,[9] which must

[6] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

[7] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[8] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[9] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

identify the intended recipients (*i.e.,* State Technical Assistance Project staff), including the type and number of recipients from a variety of settings and geographic distribution, that will receive the products and services designed to impact educational, functional, and social outcomes of the diverse population of DeafBlind children.

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe—measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met. The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP project officer, a project liaison with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIPP),[10] the project director, and the OSEP project officer on the following tasks:

(i) Revise the logic model submitted in the application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the application consistent with the revised logic model and using the most rigorous design suitable (*e.g.,* prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise the evaluation plan submitted in the application such that it clearly—

(A) Specifies the evaluation questions, measures, and associated instruments or sources for data appropriate to answer these questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completing the evaluation activities;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify data collection processes to support performance measures developed in common by the State Deafblind Projects, and to be addressed in the project's annual performance report.

(2) Dedicate sufficient staff time and other resources during the first six months of the project to collaborate with CIPP staff, including regular meetings (*e.g.,* weekly, biweekly, or monthly) with CIPP and the OSEP project officer, in order to accomplish the tasks described in paragraph (C)(1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (C)(1) and (2) of this section and revising and implementing the evaluation plan. Please note in your budget narrative the funds dedicated for this activity.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one- and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award, and an annual planning meeting in Washington, DC, or virtually, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

[10] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

Note: Within 30 days of receipt of the award, a post-award video or teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two- and one-half day project directors' conference in Washington, DC, or virtually, during each year of the project period;

(iii) An annual two-day trip, or virtually, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, or virtually, during the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include, in appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in providing services to DeafBlind children. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

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National Center on Deaf-Blindness (2022). 2020 National Deaf-Blind Child Count Report. *www.nationaldb.org/media/doc/2020_National_Deaf-Blind_Child_Count_Report_FINALEDITED_a.pdf.*

Nelson, C., & Bruce, S. M. (2022). Future directions in the field of deaf-blindness. In C. Guardino, J. Cannon, & P. Paul (Eds.), *Deaf and hard of hearing learners with disabilities: Foundations, strategies and resources* (pp. 162–192). Routledge.

Zatta, M., & McGinnity, B. (2016). An overview of transition planning for students who are deafblind. *American Annals of the Deaf, 161*(4), 474–485.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462, 1463 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants (Focus Area A) and cooperative agreement (Focus Area B).

Estimated Available Funds: The Administration requested $49,345,000 for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program for FY 2023, of which we intend to use an estimated $11,100,000 for this competition; and $250,000,000 for the Personnel Development to Improve Services and Results for Children with Disabilities program, of which we intend to use an estimated $500,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2024 from the list of unfunded applications from this competition.

Estimated Range of Awards: Focus Area A: See chart. Focus Area B: $2,100,000.

Estimated Average Size of Awards: Focus Area A: $176,000. Focus Area B: $2,100,000.

Maximum Award: Focus Area A: The following chart lists the maximum amount of funds for individual States and for a single budget period of 12 months. We will not make an award exceeding funding levels listed in this notice for individual States, or the combined funding levels listed in this notice for each State member of a consortium, for any single budget period of 12 months. A State may be served by only one supported project. In determining the maximum funding levels for each State, the Secretary considered, among other things, the following factors: (1) The total number of children from birth through age 21 in the State. (2) The number of children in poverty in the State. (3) The previous funding levels. (4) The minimum funding amounts. (5) The travel costs associated with serving the geographic location of the State.

FY 2023 FUNDING LEVELS BY STATE FOR FOCUS AREA A

State	Amount
Alabama	$149,504
Alaska	120,529
Arizona	182,611
Arkansas	99,325
California	963,563
Colorado	141,970
Connecticut	87,872
Delaware	58,500
District of Columbia	58,500
Florida	476,464
Georgia	287,224
Hawaii	68,500
Idaho	79,127
Illinois	309,454
Indiana	188,348
Iowa	88,704
Kansas	105,874
Kentucky	135,323
Louisiana	137,517
Maine	58,500
Maryland	145,875
Massachusetts	152,912
Michigan	249,646
Minnesota	148,342
Mississippi	108,574
Missouri	168,080
Montana	109,225
Nebraska	74,786
Nevada	101,620
New Hampshire	58,500
New Jersey	223,499
New Mexico	97,125
New York	491,063
North Carolina	279,910
North Dakota	70,200
Ohio	292,774
Oklahoma	122,361
Oregon	109,947
Pennsylvania	315,812
Rhode Island	58,500
South Carolina	133,322
South Dakota	89,429
Tennessee	197,514
Texas	839,939
Utah	99,402
Vermont	64,306
Virginia	212,607
Washington	177,082
West Virginia	82,788
Wisconsin	151,195
Wyoming	70,200
Puerto Rico	84,056
Pacific **	92,000
Virgin Islands	30,000
Total	9,500,000

** The areas to be served by this award are the outlying areas of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, as well as the freely associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. An applicant for this award must propose to serve all of these areas.

Focus Area B: We will not make an award exceeding $2,100,000 for any single budget period of 12 months.

Note: The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum award through a notice published in the **Federal Register**.

Estimated Number of Awards: Focus Area A: 54. Focus Area B: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; State LAs under Part C of IDEA; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

Note: Non-SEA applicants must include a letter of support from the SEA indicating that the SEA will work with the applicant if the applicant is awarded the grant.

With respect to Focus Area A of the priority, in order to provide SEAs with greater flexibility in how TA is delivered and ensure high-quality TA, and in accordance with 34 CFR 75.127, individual States have the following options: (1) Participating as a member of a multi-State consortium; or (2) applying directly for funds as a single State. Therefore, eligible applicants for funds awarded under Focus Area A of the priority may be an entity serving a multi-State consortium or a single State.

Note: For additional information regarding group applications, refer to 34 CFR 75.127, 75.128, and 75.129.

Eligible applicants under Focus Area A are invited to submit single-State applications or be a member of a consortium application to provide DeafBlind TA services to individual States. If a State is included in more than one application as a member of a consortium or submits an individual State application, and more than one application is determined to be fundable for the State, the State will be given the option to choose the award (individual State or consortium) under which it will receive funding. A State may not be funded under multiple awards. The maximum level of funding for a consortium will reflect the combined total that the eligible entities comprising the consortium would have received if they had applied separately. For States within a consortium, each State must receive services consistent with its identified funding level.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* A grantee under Focus Area A may recover the lesser of (a) its actual indirect costs as determined by the grantee's negotiated indirect cost rate agreement and (b) 10 percent of its modified total direct costs. If a grantee's allocable indirect costs exceed 10 percent of its modified total direct costs, the grantee may not recoup the excess by shifting the cost to other grants or contracts with the U.S. Government, unless specifically authorized by legislation. The grantee must use non-Federal revenue sources to pay for such unrecovered costs.[11]

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

a. Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

b. Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Intergovernmental Review:* This competition is subject to Executive

[11] The National Technical Assistance and Dissemination Center for DeafBlind Children (ALN 84.326T) (National Center) is not subject to this limitation on recovery of indirect costs.

Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages for the Technical Assistance Center and 50 pages for State projects, and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″; margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(v) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(iv) The extent to which the budget is adequate to support the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or

beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary

under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures are:

- *Program Performance Measure #1:* The percentage of Technical Assistance and Dissemination products and services deemed to be of high quality by an independent review panel of experts qualified to review the substantive content of the products and services.
- *Program Performance Measure #2:* The percentage of Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be of high relevance to educational and early intervention policy or practice.
- *Program Performance Measure #3:* The percentage of all Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be useful in improving educational or early intervention policy or practice.
- *Program Performance Measure #4:* The cost efficiency of the Technical Assistance and Dissemination Program includes the percentage of milestones achieved in the current annual performance report period and the percentage of funds spent during the current fiscal year.
- *Long-Term Program Performance Measure:* The percentage of States receiving Special Education Technical Assistance and Dissemination services regarding scientifically or evidence-based practices for infants, toddlers, children, and youth with disabilities that successfully promote the implementation of those practices in school districts and service agencies.

Additional project measures developed by and common to all State DeafBlind projects funded under Focus Area A are designed to address expected project outcomes and must also be reported on annually.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in its annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Deputy Assistant Secretary. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2022–27457 Filed 12–16–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. 15–96–LNG]

Port Arthur LNG, LLC; Request for Extension for Long-Term Authorization To Export Liquefied Natural Gas

AGENCY: Office of Fossil Energy and Carbon Management, Department of Energy.

ACTION: Notice of request.

SUMMARY: The Office of Fossil Energy and Carbon Management (FECM) (formerly the Office of Fossil Energy) of the Department of Energy (DOE) gives notice (Notice) of receipt of a request (Request), filed by Port Arthur LNG, LLC (PALNG) on November 18, 2022, and supplemented on November 22, 2022. PALNG requests an amendment to its existing authorization to export domestically produced liquefied natural gas (LNG) to non-free trade agreement countries set forth in DOE/FE Order No. 4372 (as amended)—specifically, an extension to commence its commercial export operations. PALNG filed its request under the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, January 3, 2023.

ADDRESSES:

Electronic Filing by email: *fergas@hq.doe.gov.*

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, DOE has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Office of Resource Sustainability staff at (202) 586–4749 or (202) 586–7893 to discuss

the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4749 or (202) 586–7893, *jennifer.wade@hq.doe.gov* or *peri.ulrey@hq.doe.gov.*

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793, *cassandra.bernstein@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On May 2, 2019, in DOE/FE Order No. 4372 (as amended),[1] DOE authorized PALNG to export domestically produced LNG by vessel from the proposed Liquefaction Project to be located in Port Arthur, Texas, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries).[2] PALNG is authorized to export LNG to non-FTA countries in a volume equivalent to 698 billion cubic feet per year (Bcf/yr) of natural gas for a term extending through December 31, 2050.[3]

As relevant here, Order No. 4372 requires PALNG to ''commence export operations using the planned liquefaction facilities no later than seven years from the date of issuance of this Order''—*i.e.,* by May 2, 2026.[4] In the Request, PALNG asks DOE to extend this commencement deadline to June 18, 2028, ''such that the term of [the non-FTA] authorization would begin on the earlier of the date of first commercial export or June 18, 2028.'' [5]

In support of this Request, PALNG states that, on October 13, 2022, the Federal Energy Regulatory Commission (FERC) issued an order granting PALNG's request for an extension of time until June 18, 2028, to complete construction of the Liquefaction Project and to make it available for service (FERC Extension Order).[6] PALNG states that its extension request would make its commencement deadline in Order No. 4372 (as amended) consistent with the June 18, 2028 deadline approved in the FERC Extension Order. PALNG also identifies the actions it has taken to date to develop the Liquefaction Project. According to PALNG, granting the requested extension of time will enable PALNG to complete the necessary arrangements to commence construction and place the Liquefaction Project into service.[7] Additional details can be found in the Request, posted on the DOE website at: *www.energy.gov/fecm/port-arthur-lng-llc-fe-dktno-15-96-lng.*

DOE Evaluation

In reviewing PALNG'S Request, DOE will consider any issues required by law or policy under NGA section 3(a). To the extent appropriate, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[8] DOE's response to public comments received on that Study,[9] and the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [10]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014); [11] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update,* 84 FR 49278 (Sept. 19, 2019), and DOE's response to public comments received on that study.[12]

Parties that may oppose the Request should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Request.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Request. Interested parties will be provided 15 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and comment on PALNG's prior non-FTA applications in Docket No. 15–96–LNG. Therefore, DOE will not consider comments or protests that do not bear directly on this Request.

Any person wishing to become a party to this portion of the proceeding evaluating PALNG's Request must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Request will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Request. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590, including the service requirements.

As noted, DOE is only accepting electronic submissions at this time.

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[1] *Port Arthur LNG, LLC,* DOE/FE Order No. 4372, Docket No. 15–96–LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (May 2, 2019), *as amended* Order No. 4372–A (Oct. 28, 2020) (extending export term).

[2] 15 U.S.C. 717b(a).

[3] *See Port Arthur LNG, LLC,* DOE/FE Order No. 4372, as amended in Order No. 4372–A (Ordering Para. A).

[4] *Port Arthur LNG, LLC,* DOE/FE Order No. 4372, at 72 (Ordering Para. D).

[5] Port Arthur LNG, LLC, Request for Extensions for Long-Term Authorizations to Export Liquefied Natural Gas, Docket Nos. 15–53–LNG, *et al.,* at 4 (Nov. 18, 2022) [hereinafter Request]. The Request also applies to PALNG's existing FTA orders in Docket Nos. 15–53–LNG and 18–162–LNG, but DOE will address that portion of the Request separately pursuant to NGA section 3(c), 15 U.S.C. 717b(c).

[6] *Port Arthur LNG, LLC,* 181 FERC ¶ 61,024 (2022).

[7] Request at 6.

[8] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[9] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018), *https://www.govinfo.gov/content/pkg/FR-2018-12-28/pdf/2018-28238.pdf.*

[10] The Addendum and related documents are available at *https://www.energy.gov/fecm/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[11] The 2014 Life Cycle Greenhouse Gas Report is available at *https://www.energy.gov/fecm/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

[12] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at *https://fossil.energy.gov/app/docketindex/docket/index/21.*

Please email the filing to *fergas.hq.doe.gov.* All filings must include a reference to ''Docket No. 15–96–LNG'' or ''Port Arthur LNG, LLC Request for Extension'' in the title line.

Please Note: Please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner.

The Request and any filed protests, motions to intervene, notices of interventions, and comments will also be available electronically by going to the following DOE Web address: *www.energy.gov/fecm/regulation.*

A decisional record on the Request will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Request and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on December 13, 2022.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability.

[FR Doc. 2022–27389 Filed 12–16–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77–314]

Pacific Gas and Electric Company; Notice of Technical Meeting

a. *Project Name and Number:* Potter Valley Hydroelectric Project No. 77.

b. *Project licensee:* Pacific Gas and Electric Company (PG&E).

c. *Date and Time of Meeting:* Tuesday, January 10, 2023, 1:00 p.m. Eastern Time (10 a.m. Pacific Time).

d. *FERC Contact:* Diana Shannon, (202) 502–6136 or *diana.shannon@ferc.gov.*

e. *Project Location:* The Potter Valley Project is located on the Eel River and the East Branch Russian River in Mendocino and Lake Counties, California.

f. *Purpose of Meeting:* On March 17, 2022, the National Marine Fisheries Service (NMFS) proposed interim protective measures for continued operation of the Potter Valley Project. Upon receipt of additional information from NMFS and PG&E, on November 16, 2022, Commission staff issued public notice of a proceeding to consider reopening the project license under standard Article 15 to require the proposed interim measures to protect federally listed species. Commission staff is meeting with NMFS and PG&E on January 10, 2023, via conference call, to discuss the proposed interim measures.

g. *Proposed Agenda:*

(1) Introduction of participants;

(2) Commission staff explain the purpose of the meeting; and

(3) Participants discuss the proposed interim measures.

h. All local, state, and federal agencies, Indian Tribes, and other interested parties are invited to listen to the meeting. However, participation in the meeting will be limited to NMFS, PG&E, and Federal Energy Regulatory Commission staff. The meeting will be transcribed by a court reporter and the transcript will be placed in the public record.

i. Please call or email Diana Shannon at (202) 502–6136 or *diana.shannon@ferc.gov* by Friday, January 6, 2023, to RSVP and to receive specific instructions on how to participate.

Dated: December 13, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27455 Filed 12–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–9353–001]

Notice of Filing; Shah, P.E., Smita N.

Take notice that on December 12, 2022, Smita N. Shah, P.E. submitted for filing, notice of change in status regarding interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d (b) and part 45.8 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.8.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register***,* the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on January 2, 2023.

Dated: December 13, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27458 Filed 12–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–23–000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 8, 2022, Equitrans, L.P. (Equitrans), 2200 Energy Drive, Canonsburg, Pennsylvania 15317, filed in the above referenced docket, a prior notice pursuant to Section 157.205 and 157.216(b) of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and the blanket certificate issued by the Commission in Docket No. CP96–532–000,[1] seeking authorization to abandon a single compressor unit at Equitrans' Comet Compressor Station located in Taylor County, West Virginia.

Specifically, Equitrans seeks authorization to abandon in place Unit 5 (AJAX DPC 600) which is one of five compressor units at the compressor station. The unit is not needed to provide service and is not rated for the current MAOP of the station, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

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 (*www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Matthew Eggerding, Assistant General Counsel, at Equitrans, L.P., 2200 Energy Drive, Canonsburg, PA 15317; by phone at (412) 553–5786; or by email to *Meggerding@equitransmidstream.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 13, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is February 13, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is February 13, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 13, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–23–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing.'' The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

[1] *Equitrans, L.P.,* 85 FERC ¶ 61,089 (1998).

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP23–23–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Matthew Eggerding, Assistant General Counsel, at Equitrans, L.P., 2200 Energy Drive, Canonsburg, PA 15317; by phone at (412) 553–5786; or by email to *Meggerding@equitransmidstream.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: December 13, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27459 Filed 12–16–22; 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 rate filings:

Docket Numbers: ER10–2854–003.
Applicants: ConocoPhillips Company.
Description: Triennial Market Power Analysis for Northwest Region of ConocoPhillips Company.
Filed Date: 12/12/22.
Accession Number: 20221212–5241.
Comment Date: 5 p.m. ET 2/10/23.

Docket Numbers: ER22–1841–001.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Compliance filing: 676–J Order First Compliance to be effective 12/31/9998.
Filed Date: 12/13/22.
Accession Number: 20221213–5067.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER22–2525–000.
Applicants: Gridmatic Inc.
Description: Refund Report of Gridmatic Inc.
Filed Date: 12/12/22.
Accession Number: 20221212–5242.
Comment Date: 5 p.m. ET 1/2/23.

Docket Numbers: ER22–2762–001.
Applicants: Northwest Power Pool.
Description: Tariff Amendment: Response to Deficiency Letter to be effective 1/1/2023.
Filed Date: 12/12/22.
Accession Number: 20221212–5158.
Comment Date: 5 p.m. ET 1/2/23.

Docket Numbers: ER23–611–000.
Applicants: Northern Indiana Public Service Company LLC., Northern Indiana Public Service.
Description: § 205(d) Rate Filing: Plymouth CIAC Agreement to be effective 1/1/2023.
Filed Date: 12/12/22.
Accession Number: 20221212–5148.
Comment Date: 5 p.m. ET 1/2/23.

Docket Numbers: ER23–612–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Starr Solar Ranch 1 1st A&R GIA to be effective 12/6/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5037.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–613–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Tri-State, Empire Const Agmt at Pinto (Rev 3) to be effective 2/12/2023.
Filed Date: 12/13/22.
Accession Number: 20221213–5048.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–614–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: Tariff Amendment: Niagara Mohawk Power Corporation submits tariff filing per 35.15: Niagara Mohawk Notice of Cancellation: CRA with Solvay (SA No. 1810) to be effective 2/12/2023.
Filed Date: 12/13/22.
Accession Number: 20221213–5050.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–615–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA, SA No. 6719; Queue No. AF1–022 to be effective 11/28/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5071.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–616–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Pinewood Solar LGIA Termination Filing to be effective 12/13/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5093.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–617–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Thundering Springs Solar LGIA Termination Filing to be effective 12/13/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5096.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–618–000.
Applicants: Sandy Ridge Wind 2, LLC.
Description: Initial rate filing: Application for Market-Based Rate, Waivers and Authority to be effective 4/1/2023.
Filed Date: 12/13/22.
Accession Number: 20221213–5107.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–619–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Tariff Amendment: Notice of Cancellation of Rate Schedule FERC No. 273 to be effective 2/13/2023.
Filed Date: 12/13/22.
Accession Number: 20221213–5108.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–620–000.
Applicants: Moss Landing Energy Storage 1, LLC.

Description: § 205(d) Rate Filing: SFA Amendment to be effective 12/14/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5123.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–621–000.
Applicants: Moss Landing Energy Storage 2, LLC.
Description: § 205(d) Rate Filing: SFA Amendment to be effective 12/14/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5128.
Comment Date: 5 p.m. ET 1/3/23.

Docket Numbers: ER23–622–000.
Applicants: Moss Landing Energy Storage 1, LLC.
Description: § 205(d) Rate Filing: SFA 1,2,3 and Luminant to be effective 12/14/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5130.
Comment Date: 5 p.m. ET 1/3/23.

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: December 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–27449 Filed 12–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23–278–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: ANR—Koch 138487 Negotiated Rate Agmt to be effective 12/10/2022.
Filed Date: 12/12/22.
Accession Number: 20221212–5112.
Comment Date: 5 p.m. ET 12/27/22.

Docket Numbers: RP23–279–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2022–12–12 Negotiated Rate Agreement to be effective 12/12/2022.
Filed Date: 12/12/22.
Accession Number: 20221212–5152.
Comment Date: 5 p.m. ET 12/27/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP23–180–001.
Applicants: Eastern Shore Natural Gas Company.
Description: Compliance filing: ESNG Operational Purchase & Sales Compliance to be effective 12/10/2022.
Filed Date: 12/13/22.
Accession Number: 20221213–5072.
Comment Date: 5 p.m. ET 12/27/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–27450 Filed 12–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2197–143]

Cube Yadkin Generation, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.
b. *Project No:* 2197–143.
c. *Date Filed:* November 17, 2022.
d. *Applicant:* Cube Yadkin Generation, LLC.
e. *Name of Project:* Yadkin Hydroelectric Project.
f. *Location:* Tuckertown Development in Montgomery County, North Carolina.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
h. *Applicant Contact:* Joyce Foster, (804) 338–5110, *joyce.foster@eaglecreekre.com.*
i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov.*
j. *Deadline for filing comments, motions to intervene, and protests:* January 12, 2023.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2197–143. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* Cube Yadkin Generation, LLC proposes to

install a solar photovoltaic system on project lands near the Tuckertown Dam. The solar facility would consist of two solar arrays occupying 0.74 acre of project lands total, would result in 2.22 acres of land disturbance to construct the facilities, and would provide 500 kilowatts of power to the electric grid. The licensee's proposal is associated with a grant from the U.S. Department of Energy to study the control and coordination of multiple generation sources (*i.e.,* in this case, solar energy and hydroelectric energy) connecting to the electric grid.

l. *Locations of the Application:* In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''elibrary'' link. Enter the docket number excluding the last three digits in the document field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3673 or TYY, (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: December 13, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27460 Filed 12–16–22; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–22–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Application and Establishing Intervention Deadline

Take notice that on December 8, 2022, Great Lakes Gas Transmission Limited Partnership (Great Lakes), 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, filed in the above referenced docket, an application under section 7(b) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization to temporarily abandon a portion of its certificated horsepower at its Compressor Station No. 1 located near St. Vincent, Minnesota, and to temporarily abandon the associated system design capacity from Great Lakes' point of receipt at Emerson in Kittson County, Minnesota, to its point of delivery at Fortune Lake in Iron County, Michigan.

More specifically, Great Lakes requests to temporarily abandon, for up to 36 months, the certificated horsepower of Station No. 1 from 32,330 HP to 15,830 HP and reduce the associated design capacity from 2,049 MDth/d to 1,905 MDth/d in the summer (144 MDth/d) and from 2,132 MDth/d to 1,947 MDth/d in the winter (185 MDth/d) from Great Lakes' point of receipt at Emerson in Kittson County, Minnesota, to its point of delivery at Fortune Lake in Iron County, Michigan, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In its application, Great Lakes states that the temporary abandonments will have no impact on service to Great Lakes' shippers because the capacity being abandoned is unsubscribed and the HP being abandoned has not been used by Great Lakes for deliverability since 2018–2019. Great Lakes also states that these temporary abandonments will allow Great Lakes time for an analysis of long-term needs for this capacity versus the cost of repair or replacement of certain compressor units on its system.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this prior notice request should be directed to David A. Alonzo, Manager, Project Authorizations, Great Lakes Gas Transmission Limited Partnership, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, at (832) 320–5477, or by email to *david_alonzo@tcenergy.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of

[1] 18 CFR (Code of Federal Regulations) 157.9.

the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on January 3, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is January 3, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is January 3, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before January 3, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–22–000 in your submission:

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–22–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail at: David A. Alonzo, Manager, Project Authorizations, Great Lakes Gas Transmission Limited Partnership, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, or email (with a link to the document) at: *david_alonzo@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

Dated: December 13, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–27461 Filed 12–16–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2022–0132; FRL–9411–11–OCSPP]

Certain New Chemicals; Receipt and Status Information for November 2022

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA Section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 11/1/2022 to 11/30/2022.

DATES: Comments identified by the specific case number provided in this document must be received on or before January 18, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2022–0132, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 11/01/2022 to 11/30/2022. The Agency is providing notice of receipt of PMNs, SNUNs, and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN, or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *https://www.epa.gov/chemicals-under-tsca.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

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

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a

copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (see the **Federal Register** of May 12, 1995 (60 FR 25798) (FRL–4942–7). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future version of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 11/1/2022 TO 11/30/2022

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–23–0002	1	10/07/2022	CBI	(G) Manufacture of a recombinant protein	(G) Microorganism stably transformed to express a recombinant protein.
P–20–0060A	9	11/05/2022	CBI	(S) Catalyst for polyurethane foam manufacturing.	(G) Bismuth Carboxylate complexes.
P–22–0019A	2	11/23/2022	CBI	(G) Film-forming polymer	(G) Protein sodium complexes, polymers with aromatic acid chloride, ethylene diamine and amino acid.
P–22–0044A	3	11/22/2022	CBI	(G) Site Limited Intermediate	(G) Silica gel, reaction products with alkyl metal salt.
P–22–0107A	3	11/29/2022	Locus Fermentation Solutions.	(G) Surfactant for consumer, industrial, commercial applications.	(G) Glycolipids, sophorose-contg., yeast-fermented, from glycerides and carbohydrates, salts.
P–22–0108A	3	11/29/2022	Locus Fermentation Solutions.	(G) Surfactant for consumer, industrial, commercial applications.	(G) Glycolipids, sophorose-contg., yeast-fermented, from glycerides and carbohydrates, salts.
P–22–0109A	3	11/29/2022	Locus Fermentation Solutions.	(G) Surfactant for consumer, industrial, commercial applications.	(G) Glycolipids, sophorose-contg., yeast-fermented, from glycerides and carbohydrates, salts.
P–22–0110A	3	11/29/2022	Locus Fermentation Solutions.	(G) Surfactant for consumer, industrial, commercial applications.	(G) Glycolipids, sophorose-contg., yeast-fermented, from glycerides and carbohydrates, salts.
P–22–0111A	3	11/29/2022	Locus Fermentation Solutions.	(G) Surfactant for consumer, industrial, commercial applications.	(G) Glycolipids, sophorose-contg., yeast-fermented, from glycerides and carbohydrates, salts.
P–22–0112A	3	11/29/2022	Locus Fermentation Solutions.	(G) Surfactant for consumer, industrial, commercial applications.	(G) Glycolipids, sophorose-contg., yeast-fermented, from glycerides and carbohydrates, salts.
P–23–0006A	3	11/04/2022	Siltech, Inc	(G) Additive	(S) Siloxanes and silicones, di-Me, Me hydrogen, polymers with vinyl group-terminated di-Me siloxanes.
P–23–0014	4	11/21/2022	CBI	(S) Intermediate in production of fragrance.	(G) [Polyalkyl-methylenepolyhydro-polycyclic]alkyl acetate.
P–23–0017	2	11/07/2022	Givaudan Fragrances Corp	(S) Encapsulant for time-released delivery of fragrance.	(G) Hydrolyzed collagen, polymer with aromatic isocyanate, N-triethoxysylil-alkanamine, pectic polysaccharide and poly alkyl alcohol.
P–23–0018	2	11/02/2022	H.B. Fuller Company	(S) Industrial Adhesive	(G) Vegetable oil, polymer with pimelin ketone, oxymethylene and polymethylenepolyphenylene isocyanate.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 11/1/2022 TO 11/30/2022—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–23–0018A	3	11/14/2022	H.B. Fuller Company	(S) Industrial Adhesive	(G) Vegetable oil, polymer with pimelin ketone, oxymethylene and polymethylenepolyphenylene isocyanate.
P–23–0019	2	11/04/2022	CBI	(G) Photolithography	(G) Sulfonium, triphenyl-, polyhydro-5-(polyfluoro-2-sulfoalkyl)spiro[4,7-methano-1,3-benzodioxole-2,2′-polycycloalkane]-5-carboxylate (1:1).
P–23–0020	1	11/04/2022	Siltech, Inc	(G) Additive/intermediate	(S) Silsesquioxanes, 3-mercaptopropyl, polymers with silic acid (H4SiO4) tetra-Et ester, [(trimethylsilyl)oxy]-terminated.
P–23–0021	2	11/16/2022	CBI	(G) Resin used for the fabrication of articles.	(G) Ethylene, polymer with tetrafluoroethylene and hexafluoropropene.
P–23–0022	1	11/11/2022	Cabot Corporation	(G) Additive used in industrial applications.	(G) Multi-walled carbon nanotubes.
P–23–0023	1	11/11/2022	Cabot Corporation	(G) Additive used in industrial applications..	(G) Multi-walled carbon nanotubes.
P–23–0024	1	11/11/2022	Cabot Corporation	(G) Additive used in industrial applications..	(G) Multi-walled carbon nanotubes.
P–23–0025	1	11/11/2022	Solugen, Inc	(G) Additive used in consumer, industrial, and commercial applications.	(G) Polycarboxylic acid, salt.
P–23–0026	1	11/11/2022	Solugen, Inc	(G) Additive used in consumer, industrial, and commercial applications.	(G) Polycarboxylic acid, salt.
P–23–0027	1	11/11/2022	Solugen, Inc	(G) Additive used in consumer, industrial, and commercial applications.	(G) Polycarboxylic acid, salt.
P–23–0029	1	11/14/2022	CBI	(G) Battery Cathode Manufacturing	(G) Cobalt metal nickel oxide.
P–23–0030	1	11/17/2022	CBI	(G) A polymer of insulating materials	(G) Phenol, polyalkylcarbo bis-, polymer with 2-carbomonocyclichaloheteromonocycle, bis[(alkenylcarbomonocyclic)alkyl] ether.
P–23–0031	1	11/21/2022	Tetramer Technologies, LLC.	(G) Component in Lubricants	(G) Glycerin, polyalkoxylated, mixed fatty acid and alkyl diacid esters.
P–23–0032	2	11/28/2022	ADC—Adrian	(S) Industrial belting—Tough material with very good flex fatigue properties to replace current products. No crush wheels—used in multiple industries; the good flex fatigue properties, resilience, and toughness would make an ideal polymer for this application. General replacement for polytetramethylene ether glycol (PTMEG)-based cast urethane parts fatigue properties.	(S) 1,3 propanediol, polymer with 1,3 diisocyanatomethylbenzene.
P–23–0033	1	11/22/2022	Cabot Corporation	(G) Additive used in industrial applications.	(G) Multi-walled carbon nanotubes.
P–23–0034	1	11/23/2022	CBI	(G) Process aid	(G) Derivative of a diallyldimethylammonium chloride and substituted ethylene copolymer.
SN–22–0007A	4	11/11/2022	Braven Environmental, LLC	(G) Product of Pyrolysis manufacturing	(S) Waste plastics, pyrolyzed, C5–12 fraction.
SN–22–0008A	4	11/11/2022	Braven Environmental, LLC	(G) Product of Pyrolysis Manufacturing	(S) Waste plastics, pyrolyzed, C20–55 fraction.
SN–22–0009A	4	11/11/2022	Braven Environmental, LLC	(G) Product of Pyrolysis Manufacturing	(S) Waste plastics, pyrolyzed, C9–20 fraction.
SN–23–0001	2	11/03/2022	Ultium Cells, LLC	(S) Use as a conductive material in battery cells.	(G) Single-walled carbon nanotubes.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 11/1/2022 TO 11/30/2022

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–17–0306A	11/22/2022	09/11/2022	Amended generic chemical name.	(G) Vegetable oil, polymer with alkyl dialcohol, cyclic dicarboxylic anhydride, aromatic dicarboxylic acid, and polyglycol.

TABLE II—NOCS APPROVED * FROM 11/1/2022 TO 11/30/2022—Continued

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–18–0362	11/03/2022	10/20/2022	N	(S) 1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with 2, 4-diisocyanato-1-methylbenzene, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)] and alpha, alpha prime, alpha double prime-1,2, 3-propanetriyltris[omega-hydroxypoly[oxy(methyl-1,3-ethandiyl)]], me et ketone oxime blocked.
P–19–0019A	11/16/2022	08/21/2021	Amended generic chemical name.	(G) Chlorofluoroalkane.
P–19–0108	11/11/2022	11/11/2022	N	(S) Benzoic acid, 2-chloro-4-methyl-, ethyl ester.
P–19–0187	11/11/2022	11/11/2022	N	(S) Benzoic acid, 2-chloro-4-methyl-, sodium salt (1:1).

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 11/1/2022 TO 11/30/2022

Case No.	Received date	Type of test information	Chemical substance
P–13–0021	11/15/2022	Test Data Validation Study	(G) Perfluoroacrylate polymer.
P–16–0543	11/28/2022	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–16–0543	11/14/2022	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 13, 2022.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2022–27448 Filed 12–16–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0743; FRL–9943–02–OCSPP]

n-Methylpyrrolidone (NMP); Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the final revision to the risk determination for the n-methylpyrrolidone (NMP) risk evaluation issued under the Toxic Substances Control Act (TSCA). The revision to the NMP risk determination reflects the announced policy changes to ensure the public is protected from unreasonable risks from chemicals in a way that is supported by science and the law. EPA determined that NMP, as a whole chemical substance, presents an unreasonable risk of injury to health when evaluated under its conditions of use. In addition, this revised risk determination does not reflect an assumption that workers always appropriately wear personal protective equipment (PPE). EPA understands that there could be adequate occupational safety protections in place at certain workplace locations; however, not assuming use of PPE reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by Occupational Safety and Health Administration (OSHA) standards, or their employers are out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' or because OSHA has not issued a chemical-specific permissible exposure limit (PEL) (as is the case for NMP), or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements. This revision supersedes the condition of use-specific no unreasonable risk determinations in the December 2020 NMP Risk Evaluation and withdraws the associated TSCA order included in the December 2020 NMP Risk Evaluation.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0743, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Additional instructions on visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Clara Hull, Office of Pollution Prevention and Toxics (7404M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202)

564–3954; email address: *hull.clara@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to those involved in the manufacture, processing, distribution, use, disposal, and/or the assessment of risks involving chemical substances and mixtures. You may be potentially affected by this action if you manufacture (defined under TSCA to include import), process (including recycling), distribute in commerce, use or dispose of NMP, including NMP in products. Since other entities may also be interested in this revision to the risk determination, EPA has not attempted to describe all the specific entities that may be affected by this action.

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

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation (PESS) identified as relevant to the risk evaluation by the Administrator, under the conditions of use. 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence, and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information that is relevant to specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i) through (ii) and (iv) through (v). Each risk evaluation must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

EPA has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *see also Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983). Pursuant to such authority, EPA has reconsidered and is now finalizing a revised risk determination for NMP.

C. What action is EPA taking?

EPA is announcing the availability of the final revision to the risk determination for the NMP risk evaluation issued under TSCA that published in December 2020 (Ref. 1). In July 2022, EPA sought public comment on the draft revisions (87 FR 39511, July 1, 2022). EPA appreciates the public comments received on the draft revision to the NMP risk determination. After review of these comments and consideration of the specific circumstances of NMP, EPA concludes that the Agency's risk determination for NMP is better characterized as a whole chemical risk determination rather than condition-of-use-specific risk determinations. Accordingly, EPA is revising and replacing section 5 of the December 2020 NMP Risk Evaluation (Ref. 2) where the findings of unreasonable risk to health were previously made for the individual conditions of use evaluated. EPA is also withdrawing the previously issued TSCA section 6(i)(l) order for 11 conditions of use previously determined not to present unreasonable risk which was included in section 5.4.1 of the December 2020 NMP Risk Evaluation (Ref. 2).

This final revision to the NMP risk determination is consistent with EPA's plans to revise specific aspects of the first ten TSCA chemical risk evaluations to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. As a result of this revision, removing the assumption that workers always and appropriately wear PPE (see unit II.C.) means that: three additional conditions of use in addition to the original 26 drive the unreasonable risk for NMP, and for five conditions of use, acute effects in addition to chronic effects also drive the unreasonable risk to workers. However, EPA is not making condition-of-use-specific risk determinations for those conditions of use, and for purposes of TSCA section 6(i), EPA is not issuing a final order under TSCA section 6(i)(1) for the conditions of use that do not drive the unreasonable risk, and does not consider the revised risk determination to constitute a final agency action at this point in time. Overall, 29 conditions of use out of 37 EPA evaluated drive the NMP whole chemical unreasonable risk determination due to risks identified for human health. The full list of the conditions of use evaluated for the NMP TSCA risk evaluation is in Table 1–6 of the December 2020 NMP Risk Evaluation (Ref. 2).

II. Background

A. Why is EPA re-issuing the risk determination for the NMP risk evaluation conducted under TSCA?

In accordance with Executive Order 13990 (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 3, 4, 5, and 6), EPA reviewed the risk evaluations for the first ten chemical substances, including NMP, to ensure that they meet the requirements of TSCA, including conducting decision-making in a manner that is consistent with the best available science.

As a result of this review, EPA announced plans to revise specific aspects of the first ten risk evaluations in order to ensure that the risk evaluations appropriately identify unreasonable risks and thereby help ensure the protection of human health and the environment (Ref. 7). Following a review of specific aspects of the December 2020 NMP Risk Evaluation (Ref. 2) and after considering comments received on a draft revised risk determination for NMP, EPA has determined that making an

unreasonable risk determination for NMP as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation, is the most appropriate approach for NMP under the statute and implementing regulations. In addition, EPA's final risk determination is explicit insofar as it does not rely on assumptions regarding the use of PPE in making the unreasonable risk determination under TSCA section 6, even though some facilities might be using PPE as one means to reduce worker exposures; rather, the use of PPE as a means of addressing unreasonable risk will be considered during risk management, as appropriate.

Separately, EPA is conducting a screening approach to assess risks from the air and water pathways for several of the first 10 chemicals, including this chemical. For NMP the exposure pathways that were or could be regulated under another EPA administered statute were not fully assessed as part of the final risk evaluation (see section 1.4.2 of the December 2020 NMP Risk Evaluation). For NMP, some exposure pathways received only a screening-level analysis. During problem formulation, EPA conducted a first-tier screening analysis for the ambient air pathway to near-field populations downwind from industrial and commercial facilities releasing NMP which indicated low risk. In the December 2020 NMP Risk Evaluation EPA conducted a first-tier analysis to estimate NMP surface water concentrations and did not identify risks from incidental ingestion or dermal contact during swimming. This resulted in the ambient air and drinking water pathways for NMP not being fully assessed in the risk evaluation published in December 2020. The goal of the recently-developed screening approach is to provide a more robust assessment of these pathways for NMP and to determine if there may be risks that were unaccounted for in the NMP risk evaluation. The screening-level approach has gone through public comment and independent external peer review through the Science Advisory Committee on Chemicals (SACC). The Agency received the final peer review report on May 18, 2022, and has reviewed public comments and SACC comments. EPA expects to describe its findings regarding the chemical-specific application of this screening-level approach in the forthcoming proposed rule under TSCA section 6(a) for NMP.

This action pertains only to the risk determination for NMP. While EPA intends to consider and may take additional similar actions on other of the first ten chemicals, EPA is taking a chemical-specific approach to reviewing these risk evaluations and is incorporating new policy direction in a surgical manner, while being mindful of Congressional direction on the need to complete risk evaluations and move toward any associated risk management activities in accordance with statutory deadlines.

B. What is a whole chemical view of the unreasonable risk determination for the NMP risk evaluation?

TSCA section 6 repeatedly refers to determining whether a chemical *substance* presents unreasonable risk under its conditions of use. Stakeholders have disagreed over whether a chemical substance should receive: A single determination that is comprehensive for the chemical substance after considering the conditions of use, referred to as a whole-chemical determination; or multiple determinations, each of which is specific to a condition of use, referred to as condition-of-use-specific determinations.

As explained in the **Federal Register** document announcing the availability of the draft revised risk determination for NMP (87 FR 39511, July 1, 2022 (FRL–9943–01–OCSPP)), the proposed Risk Evaluation Procedural Rule (Ref. 8) was premised on the whole chemical approach to making unreasonable risk determinations. In that proposed rule, EPA acknowledged a lack of specificity in statutory text that might lead to different views about whether the statute compelled EPA's risk evaluations to address all conditions of use of a chemical substance or whether EPA had discretion to evaluate some subset of conditions of use (*i.e.,* to scope out some manufacturing, processing, distribution in commerce, use, or disposal activities), but also stated that ''EPA believes the word 'the' [in TSCA section 6(b)(4)(A)] is best interpreted as calling for evaluation that considers all conditions of use.'' The proposed rule, however, was unambiguous on the point that unreasonable risk determinations would be for the chemical substance as a whole, even if based on a subset of uses. See Ref. 8 at pages 7565–66 (''TSCA section 6(b)(4)(A) specifies that a risk evaluation must determine whether 'a chemical substance' presents an unreasonable risk of injury to health or the environment 'under the conditions of use.' The evaluation is on the chemical substance—not individual conditions of use—and it must be based on 'the conditions of use.' In this context, EPA believes the word 'the' is best interpreted as calling for evaluation that considers all conditions of use.''). In the proposed regulatory text, EPA proposed to determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use. (Ref. 8 at 7480.)

The final Risk Evaluation Procedural Rule stated (82 FR 33726, July 20, 2017 (FRL–9964–38)) (Ref. 9): ''As part of the risk evaluation, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (40 CFR 702.47). For the unreasonable risk determinations in the first ten risk evaluations, EPA applied this provision by making individual risk determinations for each condition of use evaluated as part of each risk evaluation document (*i.e.,* the condition-of-use-specific approach to risk determinations). That approach was based on one particular passage in the preamble to the final Risk Evaluation Rule which stated that EPA will make individual risk determinations for all conditions of use identified in the scope. (Ref. 9 at 33744).

In contrast to this portion of the preamble of the final Risk Evaluation Rule, the regulatory text itself and other statements in the preamble reference a risk determination *for the chemical substance* under its conditions of use, rather than separate risk determinations for each of the conditions of use of a chemical substance. In the key regulatory provision excerpted previously from 40 CFR 702.47, the text explains that ''[a]s part of the risk evaluation, EPA will determine whether *the chemical substance* presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (Ref. 9, emphasis added). Other language reiterates this perspective. For example, 40 CFR 702.31(a) states that the purpose of the rule is to establish the EPA process for conducting a risk evaluation to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment as required under TSCA section 6(b)(4)(B). Likewise, there are recurring references to whether the chemical substance presents an unreasonable risk in 40 CFR 702.41(a). See, for example, 40 CFR 702.41(a)(6), which explains

that the extent to which EPA will refine its evaluations for one or more condition of use in any risk evaluation will vary as necessary to determine whether a chemical substance presents an unreasonable risk. Notwithstanding the one preambular statement about condition-of-use-specific risk determinations, the preamble to the final rule also contains support for a risk determination on the chemical substance as a whole. In discussing the identification of the conditions of use of a chemical substance, the preamble notes that this task inevitably involves the exercise of discretion on EPA's part, and ''as EPA interprets the statute, the Agency is to exercise that discretion consistent with the objective of conducting a technically sound, manageable evaluation to determine whether a chemical substance—not just individual uses or activities—presents an unreasonable risk'' (Ref. 9 at 33729).

Therefore, notwithstanding EPA's choice to issue condition-of-use-specific risk determinations to date, EPA interprets its risk evaluation regulation to also allow the Agency to issue whole-chemical risk determinations. Either approach is permissible under the regulation. A panel of the Ninth Circuit Court of Appeals also recognized the ambiguity of the regulation on this point. *Safer Chemicals* v. *EPA,* 943 F.3d. 397, 413 (9th Cir. 2019) (holding a challenge about ''use-by-use risk evaluations [was] not justiciable because it is not clear, due to the ambiguous text of the Risk Evaluation Rule, whether the Agency will actually conduct risk evaluations in the manner Petitioners fear'').

EPA plans to consider the appropriate approach for each chemical substance risk evaluation on a case-by-case basis, taking into account considerations relevant to the specific chemical substance in light of the Agency's obligations under TSCA. The Agency expects that this case-by-case approach will provide greater flexibility in the Agency's ability to evaluate and manage unreasonable risk from individual chemical substances. EPA believes this is a reasonable approach under TSCA and the Agency's implementing regulations.

With regard to the specific circumstances of NMP, EPA has determined that a whole chemical approach is appropriate for NMP in order to protect health and the environment. The whole chemical approach is appropriate for NMP because there are benchmark exceedances for a substantial number of conditions of use (spanning across most aspects of the chemical lifecycle—from manufacturing (including import), processing, industrial and commercial use, consumer use, and disposal) for workers and consumers and risk of irreversible health effects (specifically developmental post implantation fetal loss and reduced fertility and fecundity) associated with NMP exposures. Because these chemical-specific properties cut across the conditions of use within the scope of the risk evaluation, a substantial amount of the conditions of use drive the unreasonable risk; therefore, it is appropriate for the Agency to make a determination for NMP that the whole chemical presents an unreasonable risk.

As explained later in this document, the revisions to the unreasonable risk determination (section 5 of the December 2020 NMP Risk Evaluation (Ref. 2)) follow the issuance of a draft revision to the TSCA NMP unreasonable risk determination (87 FR 39511, July 1, 2022) and the receipt of public comment. A response to comments document is also being issued with the final revised unreasonable risk determination for NMP (Ref. 10). The revisions to the unreasonable risk determination are based on the existing risk characterization section of the December 2020 NMP Risk Evaluation (Ref. 2) (section 4) and do not involve additional technical or scientific analysis. The discussion of the issues in this **Federal Register** document and in the accompanying final revised risk determination for NMP supersede any conflicting statements in the December 2020 NMP Risk Evaluation (Ref. 2) and the earlier response to comments document (Ref. 11). EPA views the peer reviewed hazard and exposure assessments and associated risk characterization as robust and upholding the standards of best available science and weight of the scientific evidence per TSCA sections 26(h) and (i).

For purposes of TSCA section 6(i), EPA is making a risk determination on NMP as a whole chemical. Under the revised approach, the ''whole chemical'' risk determination for NMP supersedes the no unreasonable risk determinations for NMP that were premised on a condition-of-use-specific approach to determining unreasonable risk and also contains an order withdrawing the TSCA section 6(i)(1) order in section 5.4.1 of the December 2020 NMP Risk Evaluation (Ref. 2).

C. What revision is EPA now making final about the use of PPE for the NMP risk evaluation?

In the risk evaluations for the first ten chemical substances, as part of the unreasonable risk determination, EPA assumed for several conditions of use that workers were provided and always used PPE in a manner that achieves the stated assigned protection factor (APF) for respiratory protection, or used chemically-resistant gloves for dermal protection. In support of this assumption, EPA used reasonably available information such as public comments indicating that some employers, particularly in the industrial setting, provide PPE to their employees and follow established worker protection standards (*e.g.,* OSHA requirements for protection of workers).

For the December 2020 NMP Risk Evaluation (Ref. 2), EPA assumed, based on reasonably available information, including public comment and safety data sheets for NMP, that workers use PPE—specifically, respirators with an APF 10 and gloves with a protection factor (PF) ranging from 5 to 10—for all occupational conditions of use. In the December 2020 NMP Risk Evaluation, EPA determined that there is unreasonable risk to these workers for 25 of the 28 occupational COUs even with this assumed PPE use.

EPA is revising the assumption for NMP that workers always and properly use PPE. However, this does not mean that EPA questions the veracity of public comments which describe occupational safety practices often followed by industry. EPA believes it is appropriate when conducting risk evaluations under TSCA to evaluate the levels of risk present in baseline scenarios where PPE is not assumed to be used by workers. This approach of not assuming PPE use by workers considers the risk to potentially exposed or susceptible subpopulations of workers who may not be covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan. It should be noted that, in some cases, baseline conditions may reflect certain mitigation measures, such as engineering controls, in instances where exposure estimates are based on monitoring data at facilities that have engineering controls in place.

In addition, EPA believes it is appropriate to evaluate the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific permissible exposure limits (PELs) and/or chemical-specific PELs with additional substance-specific standards), as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. Consistent with this approach, the December 2020 NMP Risk Evaluation

(Ref. 2) characterized risk to workers both with and without the use of PPE. By characterizing risks using scenarios that reflect different levels of mitigation, EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address any unreasonable risk identified, or to ensure that applicable OSHA requirements or industry or sector best practices that address the unreasonable risk are required for all potentially exposed and susceptible subpopulations (including self-employed individuals and public sector workers who are not covered by an OSHA State Plan).

When undertaking unreasonable risk determinations as part of TSCA risk evaluations, however, EPA does not believe it is appropriate to assume as a general matter that an applicable OSHA requirement or industry practice related to PPE use is consistently and always properly applied. Mitigation scenarios included in the EPA risk evaluation (*e.g.,* scenarios considering use of various PPE) likely represent what is happening already in some facilities. However, the Agency cannot assume that all facilities have adopted these practices for the purposes of making the TSCA risk determination (Ref. 12).

Therefore, EPA is making a determination of unreasonable risk for NMP from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. Making unreasonable risk determinations based on the baseline scenario should not be viewed as an indication that EPA believes there are no occupational safety protections in place at any location, or that there is widespread non-compliance with applicable OSHA standards. Rather, it reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan, or because their employer is out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' (Ref. 13), or because OSHA has not issued a permissible exposure limit (PEL) (as is the case for NMP), or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements.

In accordance with this approach, EPA is finalizing the revision to the NMP risk determination without relying on assumptions regarding the occupational use of PPE in making the unreasonable risk determination under TSCA section 6; rather, information on the use of PPE as a means of mitigating risk (including public comments received from industry respondents about occupational safety practices in use) will be considered during the risk management phase, as appropriate. This represents a change from the approach taken in the December 2020 NMP Risk Evaluation (Ref. 2). As a general matter, when undertaking risk management actions, EPA intends to strive for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, to the extent that applying those measures would address the identified unreasonable risk, including unreasonable risk to potentially exposed or susceptible subpopulations. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements. Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may be already common practice in many or most facilities. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or be sufficient to address the unreasonable risk.

Removing the assumption that workers always and appropriately wear PPE in making the whole chemical risk determination for NMP means that: three conditions of use in addition to the original 26 drive the unreasonable risk for NMP (industrial and commercial use in ink, toner, and colorant products; industrial and commercial use in other uses soldering materials; and industrial and commercial use in other uses in fertilizer and other agricultural chemical manufacturing—processing aids and solvents). Additionally, for five conditions of use, acute effects in addition to chronic effects also drive the unreasonable risk to workers (the five conditions of use are: processing for incorporation into articles in paint additives and coating additives not described by other codes in transportation equipment manufacturing; industrial and commercial use in paints, coatings, and adhesive removers; industrial and commercial use in paints and coatings in lacquers, stains, varnishes, primers, and floor finishes, powder coatings (surface preparation); industrial and commercial use paint additives and coating additives in multiple manufacturing sectors; and industrial and commercial use in adhesives and sealants including binding agents, single component glues and adhesives, including lubricant additives, two-component glues, and adhesives including some resins). The finalized revision to the NMP risk determination clarifies that EPA does not rely on the assumed use of PPE when making the risk determination for the whole substance; rather, the use of PPE as a means of addressing unreasonable risk will be considered during risk management, as appropriate.

D. What is NMP?

NMP is a water-miscible, organic solvent that is often used as a substitute for halogenated solvents. NMP exhibits a unique set of physical and chemical properties that have proven useful in a range of industrial, commercial, and consumer applications. NMP has a wide range of uses, including in the production of paints and coatings, as a solvent for cleaning and degreasing, and in the manufacture of electronics. There are also a variety of consumer and commercial products that contain NMP, such as adhesives and sealants, as well as adhesive removers, automotive care products, and paints and coatings. NMP is both manufactured domestically and imported into the United States.

E. What conclusions is EPA finalizing today in the revised TSCA risk evaluation based on the whole chemical approach and not assuming the use of PPE?

EPA determined that NMP presents an unreasonable risk to health under the conditions of use. EPA's unreasonable risk determination for NMP as a chemical substance is driven by risks associated with the following conditions of use, considered singularly or in combination with other exposures:

- Manufacturing—Domestic manufacture;
- Manufacturing—Import;
- Processing as a reactant or intermediate in plastic material and resin manufacturing and other non-incorporative processing;

- Processing for incorporation into a formulation, mixture, or reaction product in multiple sectors;
- Processing for incorporation into articles—in lubricants and lubricant additives in machinery manufacturing;
- Processing for incorporation into articles in paint additives and coating additives not described by other codes in transportation equipment manufacturing;
- Processing for incorporation into articles as a solvent (which become part of product formulation or mixture), including in textiles, apparel, and leather manufacturing;
- Processing for incorporation into articles in other sectors, including in plastic product manufacturing;
- Processing in recycling;
- Processing for repackaging (wholesale and retail trade);
- Industrial and commercial use in paints, coatings, and adhesive removers;
- Industrial and commercial use in paints and coatings in lacquers, stains, varnishes, primers, and floor finishes, powder coatings (surface preparation);
- Industrial and commercial use in paint additives and coating additives not described by other codes in computer and electronic product manufacturing in electronic parts manufacturing;
- Industrial and commercial use paint additives and coating additives not described by other codes in computer and electronic product manufacturing in semiconductor manufacturing;
- Industrial and commercial use paint additives and coating additives in multiple manufacturing sectors;
- Industrial and commercial use as a solvent (for cleaning or degreasing) in electrical equipment, appliance and component manufacturing;
- Industrial and commercial use as a solvent (for cleaning or degreasing) in electrical equipment appliance and component manufacturing in semiconductor manufacturing;
- Industrial and commercial use in processing aids specific to petroleum production in petrochemical manufacturing, in other uses in oil and gas drilling, extraction, and support activities, and in functional fluids (closed systems);
- Industrial and commercial use in adhesives and sealants including binding agents, single component glues and adhesives, including lubricant additives, two-component glues, and adhesives including some resins;
- Industrial and commercial use in other uses in anti-freeze and de-icing products, automotive care products, and lubricants and greases;
- Industrial and commercial use in metal products not covered elsewhere and lubricant and lubricant additives including hydrophilic coatings;
- Industrial and commercial uses in other uses in laboratory chemicals;
- Industrial and commercial uses in other uses in lithium ion battery manufacturing;
- Industrial and commercial uses in other uses in cleaning and furniture care products including wood cleaners and gasket removers;
- Industrial and commercial use in ink, toner, and colorant products (printer ink; inks in writing equipment);
- Industrial and commercial use in other uses in soldering materials;
- Industrial and commercial use in other uses in fertilizer and other agricultural chemical manufacturing in processing aids and solvents;
- Consumer use in adhesives and sealants (glues and adhesives including lubricant adhesives); and
- Disposal.

The following conditions of use do not drive EPA's unreasonable risk determination for NMP:

- Distribution in commerce;
- Consumer use in paint and coating removers;
- Consumer use in adhesive removers;
- Consumer use in paints and coatings in lacquers, stains, varnishes, primers and floor finishes;
- Consumer use in paint additives and coating additives not described by other codes in paints and arts and crafts paints;
- Consumer use in other uses in automotive car products;
- Consumer use in other uses in cleaning and furniture care products, including wood cleaners and gasket removers; and
- Consumer use in other uses in lubricant and lubricant additives, including hydrophilic coatings.

EPA is not making condition of use-specific risk determinations for these conditions of use, is not issuing a final order under TSCA section 6(i)(1) for the conditions of use that do not drive unreasonable risk, and does not consider the revised risk determination for NMP to constitute a final agency action at this point in time.

Consistent with the statutory requirements of TSCA section 6(a), EPA will propose a risk management regulatory action to the extent necessary so that NMP no longer presents an unreasonable risk. EPA expects to focus its risk management action on the conditions of use that drive the unreasonable risk. However, it should be noted that, under TSCA section 6(a), EPA is not limited to regulating the specific activities found to drive unreasonable risk and may select from among a suite of risk management requirements in section 6(a) related to manufacture (including import), processing, distribution in commerce, commercial use, and disposal as part of its regulatory options to address the unreasonable risk. As a general example, EPA may regulate upstream activities (*e.g.,* processing, distribution in commerce) to address downstream activities (*e.g.,* consumer uses) driving unreasonable risk, even if the upstream activities do not drive the unreasonable risk.

III. Summary of Public Comments

EPA received a total of 22 public comments on the July 1, 2022, draft revised risk determination for NMP during the comment period that ended August 1, 2022, of which 20 were unique and responsive to the request for comments. Commenters included trade organizations, industry stakeholders, environmental groups, and non-governmental health advocacy organizations. A separate document that summarizes all comments submitted and EPA's responses to those comments has been prepared and is available in the docket for this notice (Ref. 10).

IV. Revision of the December 2020 NMP Risk Evaluation

A. Why is EPA revising the risk determination for the NMP risk evaluation?

EPA is finalizing the revised risk determination for the NMP risk evaluation pursuant to TSCA section 6(b) and consistent with Executive Order 13990, (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 3, 4, 5, and 6). EPA is revising specific aspects of the first ten TSCA existing chemical risk evaluations in order to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. For the NMP risk evaluation, this includes: (1) Making the risk determination in this instance based on the whole chemical substance instead of by individual conditions of use and (2) Emphasizing that EPA does not rely on the assumed use of PPE when making the risk determination.

B. What are the revisions?

EPA is now finalizing the revised risk determination for the December 2020 NMP Risk Evaluation (Ref. 2) pursuant to TSCA section 6(b). Under the revised determination (Ref. 1), EPA concludes that NMP, as evaluated in the risk

evaluation as a whole, presents an unreasonable risk of injury to health when evaluated under its conditions of use. This revision replaces the previous unreasonable risk determinations made for NMP by individual conditions of use, supersedes the determinations (and withdraws the associated order) of no unreasonable risk for the conditions of use identified in the TSCA section 6(i)(1) no unreasonable risk order, and clarifies the lack of reliance on assumed use of PPE as part of the risk determination.

These revisions do not alter any of the underlying technical or scientific information that informs the risk characterization, and as such the hazard, exposure, and risk characterization sections are not changed, except to statements about PPE assumptions in section 2.4.1.1 (Occupational Exposures Approach and Methodology) and 4.2.2 (Risk Estimation for Worker Exposures for Occupational Use of NMP). The discussion of the issues in this *notice* and in the accompanying final revision to the risk determination supersede any conflicting statements in the prior executive summary, and section 2.4.1.1 and section 4.2.2 from the December 2020 NMP Risk Evaluation (Ref. 2) and the response to comments document (Ref. 11).

The revised unreasonable risk determination for NMP includes additional explanation of how the risk evaluation characterizes the applicable OSHA requirements, or industry or sector best practices, and also clarifies that no additional analysis was done, and the risk determination is based on the risk characterization (section 4) of the December 2020 NMP Risk Evaluation (Ref. 2).

C. Will the revised risk determination be peer reviewed?

The risk determination (section 5 of the December 2020 NMP Risk Evaluation (Ref. 2)) was not part of the scope of the Science Advisory Committee on Chemicals (SACC) peer review of the NMP risk evaluation. Thus, consistent with that approach, EPA did not conduct peer review of the final revised unreasonable risk determination for the NMP risk evaluation because no technical or scientific changes were made to the hazard or exposure assessments or the risk characterization.

V. Order Withdrawing Previous Order Regarding Unreasonable Risk Determinations for Certain Conditions of Use

EPA is also issuing a new order to withdraw the TSCA section 6(i)(1) no unreasonable risk order issued in section 5.4.1 of the December 2020 NMP Risk Evaluation (Ref. 2). This final revised risk determination supersedes the condition of use-specific no unreasonable risk determinations in the December 2020 NMP Risk Evaluation (Ref. 2). The order contained in section 5.5 of the revised risk determination (Ref. 1) withdraws the TSCA section 6(i)(1) order contained in section 5.4.1 of the December 2020 NMP Risk Evaluation (Ref. 2). Consistent with the statutory requirements of section 6(a), the Agency will propose risk management action to address the unreasonable risk determined in the NMP risk evaluation.

VI. References

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

1. EPA. Unreasonable Risk Determination for n-Methylpyrrolidone (NMP). December 2022.
2. EPA. Risk Evaluation for n-Methylpyrrolidone (NMP). December 2020. EPA Document #740–R–18–009. *https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0236-0081.*
3. Executive Order 13990. Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. **Federal Register**. 86 FR 7037, January 25, 2021.
4. Executive Order 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. **Federal Register**. 86 FR 7009, January 25, 2021.
5. Executive Order 14008. Tackling the Climate Crisis at Home and Abroad. **Federal Register**. 86 FR 7619, February 1, 2021.
6. Presidential Memorandum. Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking. **Federal Register**. 86 FR 8845, February 10, 2021.
7. EPA. Press Release; EPA Announces Path Forward for TSCA Chemical Risk Evaluations. June 2021. *https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations.*
8. EPA. Proposed Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register**. 82 FR 7562, January 19, 2017 (FRL–9957–75).
9. EPA. Final Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register**. 82 FR 33726, July 20, 2017 (FRL–9964–38).
10. EPA. Response to Public Comments to the Revised Unreasonable Risk Determination; n-Methylpyrrolidone (NMP). December 2022.
11. EPA. Summary of External Peer Review and Public Comments and Disposition for n-Methylpyrrolidone (NMP). December 2020. Available at: *https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0236-0082.*
12. Occupational Safety and Health Administration (OSHA). Top 10 Most Frequently Cited Standards for Fiscal Year 2021 (Oct. 1, 2020, to Sept. 30, 2021). Accessed October 13, 2022. *https://www.osha.gov/top10citedstandards.*
13. OSHA. Permissible Exposure Limits—Annotated Tables. Accessed June 13, 2022. *https://www.osha.gov/annotated-pels.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 13, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–27438 Filed 12–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2018–0774; FRL–10472–02–ORD]

Proposed Information Collection Request; Evaluating End User Satisfaction of EPA's Research Products (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Evaluating End User Satisfaction of EPA's Research Products'' (EPA ICR No. 2593.02, OMB Control No. 2080–0085) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through August 31, 2023. 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.

DATES: Comments must be submitted on or before February 17, 2023.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2018–0774, online using *www.regulations.gov* (our preferred method), by email to *ord.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Alyssa Gurkas, U.S. Environmental Protection Agency, Office of Research and Development, Office of Resource Management, Improvement and Accountability Division, Mail Code 41182, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–4863; email address: *Gurkas.alyssa@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The purpose of this information collection is to survey partners currently using the EPA's Office of Research and Development's (ORD) scientific research products to increase transparency and public participation, and to ascertain the quality, usability, and timeliness of the research products. ORD will collect these data to inform the annual end-of-year performance reporting to the Office of Management and Budget (OMB) that will be published each year in the Annual Performance Report (APR), which is part of the President's Budget Request and mandated under the Government Performance and Results Act (GPRA). The survey results will be used to estimate the degree to which ORD research products meet partner needs and will enable the improvement of the development and delivery of products. Some of the information reported on the form is confidential, which will be withheld from the public pursuant to Section 107(1) of the Ethics in Government Act of 1978. Participation is voluntary.

Form Numbers: None.

Respondents/affected entities: Life, physical and social science professionals.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 225.

Frequency of response: Annually.

Total estimated burden: .25 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,493 (per year).

Changes in Estimates: There is a decrease of .08 hours in the total estimated respondent burden compared with the ICR previously approved by OMB. There is a decrease in the total estimated number of respondents by 25 individuals. This burden reduction is due to the decrease in time for survey completion and the decrease in estimated respondents. The slight decrease from the original ICR is by $1,292 (decrease from $4,785 to $3,493).

Henry Frey,

Assistant Administrator, Office of Research and Development.

[FR Doc. 2022–27388 Filed 12–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0741; FRL–9944–02–OCSPP]

1-Bromopropane (1–BP); Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the final revision to the risk determination for the 1-bromopropane (1–BP) risk evaluation issued under the Toxic Substances Control Act (TSCA). The revision to the 1–BP risk determination reflects the announced policy changes to ensure the public is protected from unreasonable risks from chemicals in a way that is supported by science and the law. EPA determined that 1–BP, as a whole chemical substance, presents an unreasonable risk of injury to health when evaluated under its conditions of use. In addition, this revised risk determination does not reflect an assumption that workers always appropriately wear personal protective equipment (PPE). EPA understands that there could be adequate occupational safety protections in place at certain workplace locations; however, not assuming use of PPE reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by Occupational Safety and Health Administration (OSHA) standards, or their employers are out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' or because OSHA has not issued a chemical-specific permissible exposure limit (PEL) (as is the case for 1–BP), or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements. This revision supersedes the condition of use-specific no unreasonable risk

determinations in the August 2020 1–BP Risk Evaluation and withdraws the associated TSCA order included in the August 2020 1–BP Risk Evaluation.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0741, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Additional instructions on visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Amy Shuman Office of Pollution Prevention and Toxics (7404M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–2978; email address: *shuman.amy@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to those involved in the manufacture, processing, distribution, use, disposal, and/or the assessment of risks involving chemical substances and mixtures. You may be potentially affected by this action if you manufacture (defined under TSCA to include import), process (including recycling), distribute in commerce, use or dispose of 1–BP, including 1–BP in products. Since other entities may also be interested in this revision to the risk determination, EPA has not attempted to describe all the specific entities that may be affected by this action.

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

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation (PESS) identified as relevant to the risk evaluation by the Administrator, under the conditions of use. 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence, and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information that is relevant to specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i) through (ii) and (iv) through (v). Each risk evaluation must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

EPA has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *see also Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983). Pursuant to such authority, EPA has reconsidered and is now finalizing a revised risk determination for 1–BP.

C. What action is EPA taking?

EPA is announcing the availability of the final revision to the risk determination for the 1–BP risk evaluation issued under TSCA that published in August 2020 (Ref. 1). In July 2022, EPA sought public comment on the draft revisions (87 FR 43265, July 20, 2022). EPA appreciates the public comments received on the draft revision to the 1–BP risk determination. After review of these comments and consideration of the specific circumstances of 1–BP, EPA concludes that the Agency's risk determination for 1–BP is better characterized as a whole chemical risk determination rather than condition-of-use-specific risk determinations. Accordingly, EPA is revising and replacing Section 5 of the August 2020 1–BP Risk Evaluation (Ref. 2) where the findings of unreasonable risk to health were previously made for the individual conditions of use evaluated. EPA is also withdrawing the previously issued TSCA section 6(i)(l) order for nine conditions of use previously determined not to present unreasonable risk which was included in Section 5.4.1 of the August 2020 1–BP Risk Evaluation (Ref. 2).

This final revision to the 1–BP risk determination is consistent with EPA's plans to revise specific aspects of the first ten TSCA chemical risk evaluations to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. As a result of this revision, removing the assumption that workers always and appropriately wear PPE (see Unit II.C.) means that: seven conditions of use in addition to the original 16 conditions of use drive the unreasonable risk for 1–BP; additional risks of cancer from dermal exposures are also identified as driving the unreasonable risk to workers in six conditions of use; additional risks for acute and chronic non-cancer effects from inhalation exposures drive the unreasonable risk to workers in two conditions of use; and additional risks for acute and chronic non-cancer effects and cancer from inhalation and dermal exposures to workers drive the unreasonable risk in one condition of use (where previously this condition of use was identified as presenting unreasonable risk only to ONUs). However, EPA is not making condition-of-use-specific risk determinations for those conditions of use, and for purposes of TSCA section 6(i), EPA is not issuing a final order under TSCA section 6(i)(1) for the conditions of use that do not drive the unreasonable risk,

and does not consider the revised risk determination to constitute a final agency action at this point in time. Overall, 23 conditions of use out of 25 EPA evaluated drive the 1–BP whole chemical unreasonable risk determination due to risks identified for human health. The full list of the conditions of use evaluated for the 1–BP TSCA risk evaluation is in Table 4–58 and Table 4–59 of the August 2020 1–BP Risk Evaluation (Ref. 2).

II. Background

A. Why is EPA re-issuing the risk determination for the 1–BP risk evaluation conducted under TSCA?

In accordance with Executive Order 13990 (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 3, 4, 5, and 6), EPA reviewed the risk evaluations for the first ten chemical substances, including 1–BP, to ensure that they meet the requirements of TSCA, including conducting decision-making in a manner that is consistent with the best available science.

As a result of this review, EPA announced plans to revise specific aspects of the first ten risk evaluations in order to ensure that the risk evaluations appropriately identify unreasonable risks and thereby help ensure the protection of human health and the environment (Ref. 7). Following a review of specific aspects of the August 2020 1–BP Risk Evaluation (Ref. 2) and after considering comments received on a draft revised risk determination for 1–BP, EPA has determined that making an unreasonable risk determination for 1–BP as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation, is the most appropriate approach for 1–BP under the statute and implementing regulations. In addition, EPA's final risk determination is explicit insofar as it does not rely on assumptions regarding the use of PPE in making the unreasonable risk determination under TSCA section 6, even though some facilities might be using PPE as one means to reduce worker exposures; rather, the use of PPE as a means of addressing unreasonable risk will be considered during risk management, as appropriate.

Separately, EPA is conducting a screening approach to assess risks from the air and water pathways for several of the first 10 chemicals, including this chemical. For 1–BP, certain exposure pathways that were or could be regulated under another EPA administered statute were excluded from the final risk evaluation (see section 1.4.2 of the August 2020 1–BP Risk Evaluation). This resulted in the air exposure pathway for 1–BP not being fully assessed. The goal of the recently-developed screening approach is to remedy this exclusion and to determine if there may be risks that were unaccounted for in the 1–BP risk evaluation. The screening-level approach has gone through public comment and independent external peer review through the Science Advisory Committee on Chemicals (SACC). The Agency received the final peer review report on May 18, 2022, and has reviewed public comments and SACC comments. EPA expects to describe its findings regarding the chemical-specific application of this screening-level approach in the forthcoming proposed rule under TSCA section 6(a) for 1–BP.

This action pertains only to the risk determination for 1–BP. While EPA intends to consider and may take additional similar actions on other of the first ten chemicals, EPA is taking a chemical-specific approach to reviewing these risk evaluations and is incorporating new policy direction in a surgical manner, while being mindful of Congressional direction on the need to complete risk evaluations and move toward any associated risk management activities in accordance with statutory deadlines.

B. What is a whole chemical view of the unreasonable risk determination for the 1–BP risk evaluation?

TSCA section 6 repeatedly refers to determining whether a chemical *substance* presents unreasonable risk under its conditions of use. Stakeholders have disagreed over whether a chemical substance should receive: A single determination that is comprehensive for the chemical substance after considering the conditions of use, referred to as a whole-chemical determination; or multiple determinations, each of which is specific to a condition of use, referred to as condition-of-use-specific determinations.

As explained in the **Federal Register** document announcing the availability of the draft revised risk determination for 1–BP (87 FR 43265, July 20, 2022 (FRL–9944–01–OCSPP)), the proposed Risk Evaluation Procedural Rule (Ref. 8) was premised on the whole chemical approach to making unreasonable risk determinations. In that proposed rule, EPA acknowledged a lack of specificity in statutory text that might lead to different views about whether the statute compelled EPA's risk evaluations to address all conditions of use of a chemical substance or whether EPA had discretion to evaluate some subset of conditions of use (*i.e.,* to scope out some manufacturing, processing, distribution in commerce, use, or disposal activities), but also stated that ''EPA believes the word 'the' [in TSCA section 6(b)(4)(A)] is best interpreted as calling for evaluation that considers all conditions of use.'' The proposed rule, however, was unambiguous on the point that unreasonable risk determinations would be for the chemical substance as a whole, even if based on a subset of uses. See Ref. 8 at pages 7565–66 (''TSCA section 6(b)(4)(A) specifies that a risk evaluation must determine whether 'a chemical substance' presents an unreasonable risk of injury to health or the environment 'under the conditions of use.' The evaluation is on the chemical substance—not individual conditions of use—and it must be based on 'the conditions of use.' In this context, EPA believes the word 'the' is best interpreted as calling for evaluation that considers all conditions of use.''). In the proposed regulatory text, EPA proposed to determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use. (Ref. 8 at 7480.)

The final Risk Evaluation Procedural Rule stated (82 FR 33726, July 20, 2017 (FRL–9964–38)) (Ref. 9): ''As part of the risk evaluation, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (40 CFR 702.47). For the unreasonable risk determinations in the first ten risk evaluations, EPA applied this provision by making individual risk determinations for each condition of use evaluated as part of each risk evaluation document (*i.e.,* the condition-of-use-specific approach to risk determinations). That approach was based on one particular passage in the preamble to the final Risk Evaluation Rule which stated that EPA will make individual risk determinations for all conditions of use identified in the scope. (Ref. 9 at 33744).

In contrast to this portion of the preamble of the final Risk Evaluation Rule, the regulatory text itself and other statements in the preamble reference a risk determination *for the chemical substance* under its conditions of use, rather than separate risk determinations

for each of the conditions of use of a chemical substance. In the key regulatory provision excerpted previously from 40 CFR 702.47, the text explains that ''[a]s part of the risk evaluation, EPA will determine whether *the chemical substance* presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (Ref. 9, emphasis added). Other language reiterates this perspective. For example, 40 CFR 702.31(a) states that the purpose of the rule is to establish the EPA process for conducting a risk evaluation to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment as required under TSCA section 6(b)(4)(B). Likewise, there are recurring references to whether the chemical substance presents an unreasonable risk in 40 CFR 702.41(a). See, for example, 40 CFR 702.41(a)(6), which explains that the extent to which EPA will refine its evaluations for one or more condition of use in any risk evaluation will vary as necessary to determine whether a chemical substance presents an unreasonable risk. Notwithstanding the one preambular statement about condition-of-use-specific risk determinations, the preamble to the final rule also contains support for a risk determination on the chemical substance as a whole. In discussing the identification of the conditions of use of a chemical substance, the preamble notes that this task inevitably involves the exercise of discretion on EPA's part, and ''as EPA interprets the statute, the Agency is to exercise that discretion consistent with the objective of conducting a technically sound, manageable evaluation to determine whether a chemical substance—not just individual uses or activities—presents an unreasonable risk'' (Ref. 9 at 33729).

Therefore, notwithstanding EPA's choice to issue condition-of-use-specific risk determinations to date, EPA interprets its risk evaluation regulation to also allow the Agency to issue whole-chemical risk determinations. Either approach is permissible under the regulation. A panel of the Ninth Circuit Court of Appeals also recognized the ambiguity of the regulation on this point. *Safer Chemicals* v. *EPA,* 943 F.3d. 397, 413 (9th Cir. 2019) (holding a challenge about ''use-by-use risk evaluations [was] not justiciable because it is not clear, due to the ambiguous text of the Risk Evaluation Rule, whether the Agency will actually conduct risk evaluations in the manner Petitioners fear'').

EPA plans to consider the appropriate approach for each chemical substance risk evaluation on a case-by-case basis, taking into account considerations relevant to the specific chemical substance in light of the Agency's obligations under TSCA. The Agency expects that this case-by-case approach will provide greater flexibility in the Agency's ability to evaluate and manage unreasonable risk from individual chemical substances. EPA believes this is a reasonable approach under TSCA and the Agency's implementing regulations.

With regard to the specific circumstances of 1–BP, EPA has determined that a whole chemical approach is appropriate for 1–BP in order to protect health and the environment. The whole chemical approach is appropriate for 1–BP because there are benchmark exceedances for a substantial number of conditions of use (spanning across most aspects of the chemical lifecycle—from manufacturing (including import), processing, industrial and commercial use, consumer use, and disposal) for workers, occupational non-users, consumers, and bystanders and risk of irreversible health effects (specifically developmental toxicity and cancer) associated with 1–BP exposures. Because these chemical-specific properties cut across the conditions of use within the scope of the risk evaluation, a substantial amount of the conditions of use drive the unreasonable risk; therefore, it is appropriate for the Agency to make a determination for 1–BP that the whole chemical presents an unreasonable risk.

As explained later in this document, the revisions to the unreasonable risk determination (Section 5 of the August 2020 1–BP Risk Evaluation (Ref. 2)) follow the issuance of a draft revision to the TSCA 1–BP unreasonable risk determination (87 FR 43265, July 20, 2022) and the receipt of public comment. A response to comments document is also being issued with the final revised unreasonable risk determination for 1–BP (Ref. 10). The revisions to the unreasonable risk determination are based on the existing risk characterization section of the August 2020 1–BP Risk Evaluation (Ref. 2) (Section 4) and do not involve additional technical or scientific analysis. The discussion of the issues in this **Federal Register** document and in the accompanying final revised risk determination for 1–BP supersede any conflicting statements in the August 2020 1–BP Risk Evaluation (Ref. 2) and the earlier response to comments document (Ref. 11). EPA views the peer reviewed hazard and exposure assessments and associated risk characterization as robust and upholding the standards of best available science and weight of the scientific evidence per TSCA sections 26(h) and (i).

For purposes of TSCA section 6(i), EPA is making a risk determination on 1–BP as a whole chemical. Under the revised approach, the ''whole chemical'' risk determination for 1–BP supersedes the no unreasonable risk determinations for 1–BP that were premised on a condition-of-use-specific approach to determining unreasonable risk and also contains an order withdrawing the TSCA section 6(i)(1) order in Section 5.4.1 of the August 2020 1–BP Risk Evaluation (Ref. 2).

C. What revision is EPA now making final about the use of PPE for the 1–BP risk evaluation?

In the risk evaluations for the first ten chemical substances, as part of the unreasonable risk determination, EPA assumed for several conditions of use that workers were provided and always used PPE in a manner that achieves the stated assigned protection factor (APF) for respiratory protection, or used impervious gloves for dermal protection. In support of this assumption, EPA used reasonably available information such as public comments indicating that some employers, particularly in the industrial setting, provide PPE to their employees and follow established worker protection standards (*e.g.,* OSHA requirements for protection of workers).

For the August 2020 1–BP Risk Evaluation (Ref. 2), EPA assumed, based on reasonably available information that workers use PPE—specifically, respirators with an APF of 10 or 50, or gloves with a protection factor (PF) of 5—for 15 of 16 occupational conditions of use. In the August 2020 1–BP Risk Evaluation, EPA determined that there is unreasonable risk for nine of these occupational conditions of use even with this assumed PPE use.

EPA is revising the assumption for 1–BP that workers always and properly use PPE. However, this does not mean that EPA questions the veracity of public comments which describe occupational safety practices often followed by industry. EPA believes it is appropriate when conducting risk evaluations under TSCA to evaluate the levels of risk present in baseline scenarios where PPE is not assumed to be used by workers. This approach of not assuming PPE use by workers

considers the risk to potentially exposed or susceptible subpopulations of workers who may not be covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan. It should be noted that, in some cases, baseline conditions may reflect certain mitigation measures, such as engineering controls, in instances where exposure estimates are based on monitoring data at facilities that have engineering controls in place.

In addition, EPA believes it is appropriate to evaluate the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific permissible exposure limits (PELs) and/or chemical-specific PELs with additional substance-specific standards), as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. Consistent with this approach, the August 2020 1–BP Risk Evaluation (Ref. 2) characterized risk to workers both with and without the use of PPE. By characterizing risks using scenarios that reflect different levels of mitigation, EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address any unreasonable risk identified, or to ensure that applicable OSHA requirements or industry or sector best practices that address the unreasonable risk are required for all potentially exposed and susceptible subpopulations (including self-employed individuals and public sector workers who are not covered by an OSHA State Plan).

When undertaking unreasonable risk determinations as part of TSCA risk evaluations, however, EPA does not believe it is appropriate to assume as a general matter that an applicable OSHA requirement or industry practice related to PPE use is consistently and always properly applied. Mitigation scenarios included in the EPA risk evaluation (*e.g.,* scenarios considering use of various PPE) likely represent what is happening already in some facilities. However, the Agency cannot assume that all facilities have adopted these practices for the purposes of making the TSCA risk determination (Ref. 12).

Therefore, EPA is making a determination of unreasonable risk for 1–BP from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. Making unreasonable risk determinations based on the baseline scenario should not be viewed as an indication that EPA believes there are no occupational safety protections in place at any location, or that there is widespread non-compliance with applicable OSHA standards. Rather, it reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan, or because their employer is out of compliance with OSHA standards, or because many of OSHA's chemical-specific permissible exposure limits largely adopted in the 1970's are described by OSHA as being ''outdated and inadequate for ensuring protection of worker health,'' (Ref. 13), or because OSHA has not issued a chemical-specific permissible exposure limit (PEL) (as is the case for 1–BP), or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements.

In accordance with this approach, EPA is finalizing the revision to the 1–BP risk determination without relying on assumptions regarding the occupational use of PPE in making the unreasonable risk determination under TSCA section 6; rather, information on the use of PPE as a means of mitigating risk (including public comments received from industry respondents about occupational safety practices in use) will be considered during the risk management phase, as appropriate. This represents a change from the approach taken in the August 2020 1–BP Risk Evaluation (Ref. 2). As a general matter, when undertaking risk management actions, EPA intends to strive for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, to the extent that applying those measures would address the identified unreasonable risk, including unreasonable risk to potentially exposed or susceptible subpopulations. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements. Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may be already common practice in many or most facilities. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or be sufficient to address the unreasonable risk.

Removing the assumption that workers always and appropriately wear PPE in making the whole chemical risk determination for 1–BP means that: seven conditions of use in addition to the original 16 conditions of use drive the unreasonable risk for 1–BP; additional risk of cancer from dermal exposures is also identified as driving the unreasonable risk to workers in six conditions of use; additional risks for acute and chronic non-cancer effects from inhalation exposures drive the unreasonable risk to workers in two conditions of use; and additional risks for acute and chronic non-cancer effects and cancer from inhalation and dermal exposures to workers drive the unreasonable risk in one condition of use (where previously this condition of use was identified as presenting unreasonable risk only to ONUs). The finalized revision to the 1–BP risk determination clarifies that EPA does not rely on the assumed use of PPE when making the risk determination for the whole substance; rather, the use of PPE as a means of addressing unreasonable risk will be considered during risk management, as appropriate.

D. What is 1–BP?

1–BP is a colorless liquid with a sweet odor. It is a brominated hydrocarbon that is slightly soluble in water. 1–BP is a volatile organic compound that exhibits high volatility, a low boiling point, low flammability and no explosivity. 1–BP is produced and imported in the United States and has a wide range of uses, including as a solvent in degreasing operations, spray adhesives and dry cleaning; as a reactant in the manufacturing of other chemical substances; and in laboratory uses. There are also a variety of consumer and commercial products that contain 1–BP, such as aerosol degreasers, spot cleaners, stain removers, and insulation for building and construction materials.

E. What conclusions is EPA finalizing today in the revised TSCA risk evaluation based on the whole chemical approach and not assuming the use of PPE?

EPA determined that 1–BP presents an unreasonable risk to health under the conditions of use. EPA's unreasonable risk determination for 1–BP as a

chemical substance is driven by risks associated with the following conditions of use, considered singularly or in combination with other exposures:

- Manufacture (domestic manufacturing);
- Manufacture (import);
- Processing as a reactant;
- Processing for incorporation into formulation, mixture or reaction product;
- Processing for incorporation into articles;
- Processing: Repackaging;
- Processing: Recycling;
- Industrial and commercial use as solvent for cleaning and degreasing in vapor degreaser (batch vapor degreaser—open-top, inline vapor degreaser);
- Industrial and commercial use as solvent for cleaning and degreasing in vapor degreaser (batch vapor degreaser—closed-loop);
- Industrial and commercial use as solvent for cleaning and degreasing in cold cleaners;
- Industrial and commercial use as solvent in aerosol spray degreaser/cleaner;
- Industrial and commercial use in adhesives and sealants;
- Industrial and commercial use in dry cleaning solvents, spot cleaners and stain removers;
- Industrial and commercial use in liquid cleaners (*e.g.,* coin and scissor cleaner) and liquid spray/aerosol cleaners;
- Other industrial and commercial uses: arts, crafts, hobby materials (adhesives accelerant); automotive care products (engine degrease, brake cleaner, refrigerant flush); anti-adhesive agents (mold cleaning and release product); electronic and electronic products and metal products; functional fluids (close/open-systems)—refrigerant/cutting oils; asphalt extraction; laboratory chemicals; and temperature indicator—coatings;
- Consumer use as solvent in aerosol spray degreasers/cleaners;
- Consumer use in spot cleaners and stain removers;
- Consumer use in liquid cleaners (*e.g.,* coin and scissor cleaners);
- Consumer use in liquid spray/aerosol cleaners;
- Consumer use in arts, crafts, hobby materials (adhesive accelerant);
- Consumer use in automotive care products (refrigerant flush);
- Consumer use in anti-adhesives agents (mold cleaning and release product); and
- Disposal.

The following conditions of use do not drive EPA's unreasonable risk determination for 1–BP:

- Distribution in commerce;
- Commercial and consumer uses of building/construction materials (insulation).

EPA is not making condition of use-specific risk determinations for these conditions of use, is not issuing a final order under TSCA section 6(i)(1) for the conditions of use that do not drive the unreasonable risk and does not consider the revised risk determination for 1–BP to constitute a final agency action at this point in time.

Consistent with the statutory requirements of TSCA section 6(a), EPA will propose a risk management regulatory action to the extent necessary so that 1–BP no longer presents an unreasonable risk. EPA expects to focus its risk management action on the conditions of use that drive the unreasonable risk. However, it should be noted that, under TSCA section 6(a), EPA is not limited to regulating the specific activities found to drive unreasonable risk and may select from among a suite of risk management requirements in section 6(a) related to manufacture (including import), processing, distribution in commerce, commercial use, and disposal as part of its regulatory options to address the unreasonable risk. As a general example, EPA may regulate upstream activities (*e.g.,* processing, distribution in commerce) to address downstream activities (*e.g.,* consumer uses) driving unreasonable risk, even if the upstream activities do not drive the unreasonable risk.

III. Summary of Public Comments

EPA received a total of seven public comments on the July 20, 2022, draft revised risk determination for 1–BP during the comment period that ended August 19, 2022. Commenters included trade organizations, industry stakeholders, a union, and an environmental group. A separate document that summarizes all comments submitted and EPA's responses to those comments has been prepared and is available in the docket for this notice (Ref. 10).

IV. Revision of the August 2020 1–BP Risk Evaluation

A. Why is EPA revising the risk determination for the 1–BP risk evaluation?

EPA is finalizing the revised risk determination for the 1–BP risk evaluation pursuant to TSCA section 6(b) and consistent with Executive Order 13990, (''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'') and other Administration priorities (Refs. 3, 4, 5, and 6). EPA is revising specific aspects of the first ten TSCA existing chemical risk evaluations in order to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. For the 1–BP risk evaluation, this includes: (1) Making the risk determination in this instance based on the whole chemical substance instead of by individual conditions of use and (2) Emphasizing that EPA does not rely on the assumed use of PPE when making the risk determination.

B. What are the revisions?

EPA is now finalizing the revised risk determination for the August 2020 1–BP Risk Evaluation (Ref. 2) pursuant to TSCA section 6(b). Under the revised determination (Ref. 1), EPA concludes that 1–BP, as evaluated in the risk evaluation as a whole, presents an unreasonable risk of injury to health when evaluated under its conditions of use. This revision replaces the previous unreasonable risk determinations made for 1–BP by individual conditions of use, supersedes the determinations (and withdraws the associated order) of no unreasonable risk for the conditions of use identified in the TSCA section 6(i)(1) no unreasonable risk order, and clarifies the lack of reliance on assumed use of PPE as part of the risk determination.

These revisions do not alter any of the underlying technical or scientific information that informs the risk characterization, and as such the hazard, exposure, and risk characterization sections are not changed, except to statements about PPE assumptions in Section 2.3.1.3 (Consideration of Engineering Controls and PPE) and Section 4.2.2 (Occupational Inhalation Exposure Summary and PPE Use Determinations by OES). The discussion of the issues in this *Notice* and in the accompanying final revision to the risk determination supersede any conflicting statements in the prior executive summary, and Section 2.3.1.3 and Section 4.2.2 from the August 2020 1–BP Risk Evaluation (Ref. 2) and the response to comments document (Ref. 11).

The revised unreasonable risk determination for 1–BP includes additional explanation of how the risk evaluation characterizes the applicable OSHA requirements, or industry or sector best practices, and also clarifies that no additional analysis was done, and the risk determination is based on the risk characterization (Section 4) of the August 2020 1–BP Risk Evaluation (Ref. 2).

C. Will the revised risk determination be peer reviewed?

The risk determination (Section 5 of the August 2020 1–BP Risk Evaluation (Ref. 2)) was not part of the scope of the Science Advisory Committee on Chemicals (SACC) peer review of the 1–BP risk evaluation. Thus, consistent with that approach, EPA did not conduct peer review of the final revised unreasonable risk determination for the 1–BP risk evaluation because no technical or scientific changes were made to the hazard or exposure assessments or the risk characterization.

V. Order Withdrawing Previous Order Regarding Unreasonable Risk Determinations for Certain Conditions of Use

EPA is also issuing a new order to withdraw the TSCA Section 6(i)(1) no unreasonable risk order issued in Section 5.4.1 of the August 2020 1–BP Risk Evaluation (Ref. 2). This final revised risk determination supersedes the condition of use-specific no unreasonable risk determinations in the August 2020 1–BP Risk Evaluation (Ref. 2). The order contained in Section 5.5 of the revised risk determination (Ref. 1) withdraws the TSCA section 6(i)(1) order contained in Section 5.4.1 of the August 2020 1–BP Risk Evaluation (Ref. 2). Consistent with the statutory requirements of section 6(a), the Agency will propose risk management action to address the unreasonable risk determined in the 1–BP risk evaluation.

VI. References

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

1. EPA. Unreasonable Risk Determination for 1-Bromopropane (1–BP). December 2022.
2. EPA. Risk Evaluation for 1-Bromopropane (1–BP). August 2020. EPA Document #740–R1–8013. *https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0235-0085.*
3. Executive Order 13990. Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. **Federal Register**. 86 FR 7037, January 25, 2021.
4. Executive Order 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. **Federal Register**. 86 FR 7009, January 25, 2021.
5. Executive Order 14008. Tackling the Climate Crisis at Home and Abroad. **Federal Register**. 86 FR 7619, February 1, 2021.
6. Presidential Memorandum. Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking. **Federal Register**. 86 FR 8845, February 10, 2021.
7. EPA. Press Release; EPA Announces Path Forward for TSCA Chemical Risk Evaluations. June 2021. *https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations.*
8. EPA. Proposed Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register**. 82 FR 7562, January 19, 2017 (FRL–9957–75).
9. EPA. Final Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register**. 82 FR 33726, July 20, 2017 (FRL–9964–38).
10. EPA. Response to Public Comments to the Revised Unreasonable Risk Determination; 1-Bromopropane (1–BP). December 2022.
11. EPA. Summary of External Peer Review and Public Comments and Disposition for 1-Bromopropane (1–BP). August 2020. Available at: *https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0235-0066.*
12. Occupational Safety and Health Administration (OSHA). Top 10 Most Frequently Cited Standards for Fiscal Year 2021 (Oct. 1, 2020, to Sept. 30, 2021). Accessed October 13, 2022. *https://www.osha.gov/top10citedstandards.*
13. OSHA. Permissible Exposure Limits—Annotated Tables. Accessed June 13, 2022. *https://www.osha.gov/annotated-pels.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 13, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–27439 Filed 12–16–22; 8:45 am]

BILLING CODE 6560–50–P

EXPORT–IMPORT BANK

Sunshine Act Meetings

Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND DATE: Thursday, December 22, 2022, at 10:30 a.m.

PLACE: The meeting will be held via teleconference.

STATUS: The meeting will be open to public observation.

MATTERS TO BE CONSIDERED: Facultative Reinsurance and Facultative Risk Sharing with Private Sector Entities

CONTACT PERSON FOR MORE INFORMATION: Joyce B. Stone (202–257–4086). Members of the public who wish to attend the meeting via teleconference must register via using the link below by noon Wednesday December 21, 2022. After completing the registration, individuals will receive a confirmation email containing information about joining the webinar.

https://teams.microsoft.com/registration/PAFTuZHHMk2Zb1GDkIVFJw,pHLqbjVTrkuy_9KepKN6dQ,MFtnLzltSEGI6EQECdI5iQ,ZsdHLLqwokW2I3gz6bgB4Q,1yfct4LeXUOTa6FIziQ9tA,w50RA7BfZE2vhxnxe30hJA?mode=read&tenantId=b953013c-c791-4d32-996f-518390854527

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2022–27494 Filed 12–15–22; 11:15 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0905, OMB 3060–1269; FR ID 118551]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 17, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0905.

Title: Section 18.213, Information to the User (Regulations for RF Lighting Devices).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions.

Number of Respondents and Responses: 250 respondents; 250 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

Total Annual Burden: 250 hours.

Total Annual Cost: $18,750.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: This collection will be submitted as an extension after this 60 day comment period to the Office of Management and Budget (OMB) in order to obtain the full three year clearance.

Section 18.213 (for which the Commission is seeking continued OMB approval) requires information on industrial, scientific and medical equipment shall be provided to the user in the instruction manual or on the packaging of an instruction manual is not provided for any type of ISM equipment. (a) The interference potential of the device or system (b) maintenance of the system; (c) simple measures that can be taken by the user to correct interference; and (d) manufacturers of RF lighting devices must provide documentation, similar to the following:

This product may cause interference to radio equipment and should not be installed near maritime safety communications equipment or other critical navigation or communication equipment operating between 0.45–30 MHz. Variations of this language are permitted provided all the points of the statement are addressed and may be presented in any legible font or text style.

OMB Control Number: 3060–1269.

Title: Enhanced Geo-targeted Wireless Emergency Alerts.

Form No.: N/A.

Type of Review: Extension of a currently-approved collection.

Respondents: Individuals or households; State, Local or Tribal Government.

Number of Respondents and Responses: 25,723 respondents; 25,723 responses.

Estimated Time per Response: 0.1167 hours (7 minutes).

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is authorized under the Warning, Alert and Response Network Act, Title VI of the Security and Accountability for Every Port Act of 2006 (120 Stat. 1884, section 602(a), codified at 47 U.S.C. 1201, *et seq.,* 1202(a)) (WARN Act) and 47 U.S.C. 151, 154(i), 154(j), 154(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r) and 403.

Total Annual Burden: 3,000 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: Yes. The FCC is revising the Privacy Impact Assessment (PIA) and modifying the existing System of Records Notice (SORN), FCC/PSHSB–1, FCC Emergency and Continuity Contacts System (ECCS), for the Public Safety Support System to address the personally identifiable information (PII) that will be collected, used, and stored as part of the information collection requirements.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The WARN Act gives the Commission authority to adopt relevant technical standards, protocols, procedures and other technical requirements governing Wireless Emergency Alerts (WEA). The Commission adopted rules to implement the WEA system (previously known as the Commercial Mobile Service Alert System) pursuant to the WARN Act to satisfy the Commission's mandate to promote the safety of life and property through the use of wire and radio communication. The WEA system transmits emergency alerts to WEA-capable mobile devices, providing consumers with timely warnings and information in emergencies. In 2018, the Commission issued a Report & Order requiring that Participating Commercial Mobile Service Providers (providers) implement enhanced geo-targeting functionality by November 30, 2019 to allow WEA alert originators (*e.g.,* local emergency management offices) to target a WEA alert to eligible devices in a prescribed geographic area (*e.g.,* an area where there is imminent threat of the loss of life or property). See Federal Communications Commission, Wireless Emergency Alerts; Emergency Alert System, 83 FR 8619, 8623 (Feb. 28, 2018) (announcing a Nov. 30, 2019 amendment to 47 CFR 10.450).

The Commission now seeks to evaluate WEA performance, particularly with respect to the accuracy of providers' geo-targeting capabilities. To do so, the Commission will use surveys to collect information and evaluate performance during a WEA test. Survey respondents affiliated with two alert originators, partnered with the Commission in different geographic areas of the country, will be asked to complete a preliminary survey. This survey will improve the utility of a "live test" survey, which respondents will subsequently receive via a hyperlink embedded in a WEA test alert. The Commission has developed a survey, which is available at *https://www.fcc.gov/wea.* The Commission also made available a Spanish-language version of the test message at, *https://www.fcc.gov/wea-es.* The information sought in this collection is necessary and vital to ensuring that WEA is effective at protecting the life and property of the public.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–27372 Filed 12–16–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

[File No. P084401]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') is seeking public comments on its proposal to extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in the FTC's Funeral Industry Practice Rule (''Funeral Rule'' or ''Rule''). That clearance expires on July 31, 2023.

DATES: Comments must be filed by February 17, 2023.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Funeral Rule PRA Comment: FTC File No. P084401'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:
Melissa Dickey, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, DC 20580, *mdickey@ftc.gov,* (202) 326–2662.

SUPPLEMENTARY INFORMATION:

Title: Funeral Industry Practice Rule, 16 CFR part 453.

OMB Control Number: 3084–0025.

Type of Review: Extension without change of currently approved collection.

Abstract: The Funeral Rule ensures that consumers who are purchasing funeral goods and services have access to accurate itemized price information so they can purchase only the funeral goods and services they want or need. Among other things, the Rule requires a funeral provider to: (1) provide consumers a copy of the funeral provider's General Price List that itemizes the goods and services it offers; (2) show consumers a Casket Price List and an Outer Burial Container Price List at the outset of any discussion of those items or their prices, and in any event before showing consumers caskets or vaults; (3) provide price information from its price lists over the telephone; and (4) give consumers a Statement of Funeral Goods and Services Selected after determining the funeral arrangements with the consumer during an ''arrangements conference.'' The Rule requires that funeral providers disclose this information to consumers and maintain records documenting their compliance with the Rule.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 173,936.

Estimated Annual Labor Costs: $5,387,875.

Estimated Annual Non-Labor Costs: $858,202.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Funeral Rule.

Burden Statement

Estimated burden hours for the tasks described below are based on the number of funeral providers (approximately 18,874),[1] the number of funerals per year (an estimated 3,383,729),[2] and the time needed to complete the information collection tasks required by the Rule. Labor costs associated with the Funeral Rule are derived by applying hourly cost figures to the burden hours for each task.

Recordkeeping: The Rule requires that funeral providers retain copies of price lists and statements of funeral goods and services selected by consumers for one year. Commission staff estimates that providers will spend approximately one hour per provider per year on compliance with this task, resulting in a total burden of 18,874 hours per year (18,874 providers × 1 hour per year = 18,874 hours).

Staff anticipates that clerical personnel, at an hourly rate of $13.56,[3] will typically perform these tasks. Based on the estimated burden of 18,874 hours, the estimated labor cost for recordkeeping is $255,931.

Disclosure: The Rule's disclosure requirements mandate that funeral providers: (1) maintain current price lists for funeral goods and services, (2) provide written documentation of the funeral goods and services selected by consumers making funeral arrangements, and (3) provide information about funeral prices in response to telephone inquiries.

1. Maintaining accurate price lists may require that funeral providers revise their price lists occasionally to reflect price changes. Staff estimates that this task requires 2.5 hours per provider per year. Thus, the total burden for covered providers is 47,185 hours (18,874 providers × 2.5 hours per year = 47,185 hours).

Staff estimates that the 2.5 hours required, on average, to update price lists consists of approximately 1.5 hours of managerial or professional time, at $39.86 per hour,[4] and one hour of clerical time, at $13.56 per hour, for a total annual labor cost of $1,384,408 for maintaining price lists:

Hourly wage and labor category	Hours per respondent	Total hourly labor cost	Number of respondents	Approx. total annual labor costs
$39.86—Management Employees	1.5	$59.79	18,874	$1,128,476
$13.56—Clerical Workers	1	13.56	....	255,931
	....	....	....	1,384,408

[1] The estimated number of funeral providers is from data provided on the National Funeral Directors Association (''NFDA'') website. *See* National Funeral Directors Association, ''Statistics,'' *available at http://www.nfda.org/news/statistics* (Apr. 15, 2022).

[2] The estimated number of funerals conducted annually is derived from the National Center for Health Statistics (''NCHS''), *https://www.cdc.gov/nchs/nvss/deaths.htm.* According to NCHS, 3,383,729 deaths occurred in the United States in 2020, the most recent year for which final data is available. Staff believes this estimate overstates the number of funeral transactions conducted annually because not all remains go to a funeral provider covered by the Rule (*e.g.,* remains sent directly to a crematory that does not sell urns, remains sent to a non-profit funeral provider, remains donated to a medical school, unclaimed remains handled by a local morgue or local government entity, etc.). NFDA reports its average member home served about 113 families in 2022, which, if multiplied by the total number of homes (18,874 in 2022) would amount to approximately 2,132,726 funerals.

[3] Bureau of Labor Statistics, ''May 2021 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 812200—Death Care Services,'' *available at https://www.bls.gov/oes/current/naics4_812200.htm#11-0000* (Mar. 31, 2022). Clerical estimates are based on the mean hourly wage data for ''receptionists and information clerks.''

[4] *Id.* Managerial or professional estimates are based on the mean hourly wage data for ''funeral home managers.''

2. The rulemaking record indicates that 87% or more of funeral providers provided written documentation of funeral arrangements prior to the enactment of the Rule and would continue to do so absent the Rule's requirements.[5] Based on this data, staff estimates that 13% of funeral providers (typically, small funeral homes) may prepare written documentation for funeral goods and services selected by consumers specifically due to the Rule's mandate. Staff estimates that these smaller funeral homes arrange, on average, approximately 20 funerals per year and that it would take about three minutes to record prices for each consumer on the standard form. This yields a total annual burden of 2,454 hours [(18,874 funeral providers × 13%) × (20 statements per year × 3 minutes per statement) = 2,454 hours].

Staff anticipates that managerial or professional staff will typically perform these tasks, at an hourly rate of $39.86 per hour. Based on the estimated burden of 2,454 hours, the associated labor cost would be $97,816.

3. The Funeral Rule also requires funeral providers to provide information about funeral prices in response to telephone inquiries. The rulemaking record indicates that approximately 12% of funeral purchasers request funeral prices through telephone inquiries, with each call lasting an estimated 10 minutes.[6] Assuming that the average purchaser who makes telephone inquiries places one call per funeral to determine prices,[7] the estimated burden is 67,675 hours (3,383,729 funerals per year × 12% × 10 minutes per inquiry = 67,675 hours).

Staff understands that managerial or professional time is typically required to respond to telephone inquiries about prices, at an hourly rate of $39.86 per hour.[8] Based on the estimated burden of 67,675 hours, the associated labor cost is $2,697,526.

Compliance Training: Staff believes that annual training burdens associated with the Rule are minimal because compliance training is typically included in continuing education for state licensing and voluntary certification programs. Staff estimates that four employees per firm would each require one half-hour, at most, per year, for training attributable to the Rule's requirements.[9] Thus, the total estimated time for required training is 37,748 hours (18,874 providers × 4 employees per firm × 0.5 hours = 37,748 hours).

FTC staff further estimates labor costs for employee time required for compliance training as follows: (a) funeral home manager ($39.86 per hour); (b) funeral arrangers ($26.98 per hour); (c) funeral service workers ($20.49 per hour); and (d) a clerical receptionist or administrative staff member ($13.56 per hour).[10] This amounts to $952,194, cumulatively, for all funeral homes:

Hourly wage and labor category	Hours per respondent	Total hourly labor cost	Number of respondents	Approx. total annual labor costs
$39.86—Funeral Home Managers	0.5	$19.93	18,874	$376,159
$26.98—Non-Manager Funeral Arrangers	0.5	13.49		254,610
$20.49—Funeral Service Workers	0.5	10.25		193,459
$13.56—Clerical Workers	0.5	6.78		127,966
				952,194

Capital and other non-labor costs: Staff estimates that the Rule imposes minimal capital costs and no current start-up costs. Funeral homes already have access, for ordinary business purposes, to the ordinary office equipment needed for compliance, so the Rule likely imposes minimal additional capital expense.

Compliance with the Rule, nonetheless, does entail some expense to funeral providers for printing and duplication of required disclosures. Assuming, as required by the Rule, that one copy of the general price list is provided to consumers for each funeral or cremation conducted, at a cost of 25¢ per copy,[11] this would amount to 3,383,729 copies per year at a cumulative industry cost of $845,932 (3,383,729 funerals per year × 25¢ per copy). In addition, small funeral providers that furnish consumers with a statement of funeral goods and services solely because of the Rule's mandate[12] will incur printing and copying costs. Assuming that those 2,454 providers (18,874 funeral providers × 13%) use the standard two-page form shown in the compliance guide, at 25 cents per copy, at an average of twenty funerals per year, the added cost burden would be $12,270 (2,454 providers × 20 funerals per year × 25¢). Thus, estimated non-labor costs total $858,202 ($845,932 + 12,270).

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on:

[5] *See* 82 FR 12602, 12603 n.3 (2017). In a 2002 public comment, the National Funeral Directors Association asserted that nearly every funeral home had been providing consumers with some kind of final statement in writing even before the Rule took effect. Nonetheless, staff retains its estimate that 13% of funeral providers may provide written disclosures solely due to the Rule's requirements based on the original rulemaking record.

[6] 82 FR 12602, 12603 (2017).

[7] Although consumers who pre-plan their own arrangements may comparison shop and call more than one funeral home for pricing and other information, consumers making ''at need'' arrangements after a death are less likely to take the time to seek pricing information from more than one home. Many do not seek pricing information by telephone. Staff therefore believes that an average of one call per funeral is an appropriate estimate.

[8] Although some funeral providers may permit staff who are not funeral directors to provide price information by telephone, the great majority reserve that task to a licensed funeral director. Since funeral home managers are also licensed funeral directors in most cases, FTC staff has used the mean hourly wage for ''funeral home managers'' for this calculation.

[9] Funeral homes, depending on size and other factors, may be run by as few as one owner, manager, or other funeral director or multiple directors at various compensation levels. Extrapolating from past NFDA survey input, staff has estimated that the average funeral home employs approximately four employees (a funeral home manager, funeral director, funeral service worker, and a clerical receptionist) that may require training associated with Funeral Rule compliance. Compliance training for other employees (*e.g.,* drivers, maintenance personnel, attendants) would not be necessary.

[10] Bureau of Labor Statistics, ''May 2021 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 812200—Death Care Services,'' *available at http://www.bls.gov/oes/current/naics4_812200.htm#11-0000* (Mar. 31, 2022) (mean hourly wages for funeral home managers; morticians, undertakers, and funeral arrangers; funeral service workers; and receptionists and information clerks).

[11] Although copies of the casket price list and outer burial container price list must be shown to consumers, the Rule does not require that they be given to consumers. Thus, the cost of printing a single copy of these two disclosures to show consumers is *de minimis,* and is not included in this estimate of printing costs.

[12] *See* footnote 5.

(1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before February 17, 2023. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

You can file a comment online or on paper. Due to the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you file your comment on paper, write ''Funeral Rule PRA Comment: FTC File No. P084401'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

Because your comment will become publicly available at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled ''Confidential,'' and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 17, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2022–27392 Filed 12–16–22; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0034; Docket No. 2022–0053; Sequence No. 24]

Information Collection; Examination of Records by Comptroller General and Contract Audit

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning examination of records by Comptroller General and contract audit. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through May 31, 2023. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by February 17, 2023.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0034, Examination of Records by Comptroller General and Contract Audit. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0034, Examination of Records by Comptroller General and Contract Audit.

B. Need and Uses

This clearance covers the information that contractors must submit to comply

with the following Federal Acquisition Regulation (FAR) requirements:

FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Products and Commercial Services. Paragraph (d) of this clause requires contractors to make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction by the Comptroller General of the United States, or an authorized representative. As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form.

FAR 52.214–26, Audit and Records—Sealed Bidding. This clause requires contractors required to submit certified cost or pricing data in connection with the pricing of a modification under a contract to make all records available to the contracting officer, or its authorized representative, including computations and projections related to the proposal for the modification; the discussions conducted on the proposal(s), including those related to negotiating; pricing of the modification; or performance of the modification. This clause requires contractors to make all records available to the Comptroller General of the United States, or an authorized representative, in the case of pricing a modification. This clause allows the Comptroller General to interview any current employee regarding such transactions.

FAR 52.215–2, Audit and Records—Negotiation. This clause requires contractors to maintain records for cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contracts, or any combination of these, for contracting officers, or an authorized representative, to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of a contract. The right of examination includes inspection at all reasonable times of contractor's plants, or parts of them, engaged in performing the pertinent contract. Contractors required to submit certified cost or pricing data in connection with a pricing action under a contract must make all records available to the contracting officer, or its authorized representative, including computations and projections related to the proposal for the contract, subcontract, or modification; the discussions conducted on the proposal(s), including those related to negotiating; pricing of the contract, subcontract, or modification; or performance of the contract, subcontract or modification. Also, this clause requires contractors to make all records available to the Comptroller General of the United States, or an authorized representative, to examine any of the contractor's directly pertinent records involving transactions under the pertinent contract or subcontract. This clause allows the Comptroller General to interview any current employee regarding such transactions.

The information must be retained so that audits necessary for contract surveillance, verification of contract pricing, and reimbursement of contractor costs can be performed. This information collection does not require contractors to create or maintain any record that the contractor does not maintain in its ordinary course of business.

C. Annual Burden

Respondents: 19,033.

Total Annual Responses: 93,578.

Total Burden Hours: 93,578.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0034, Examination of Records by Comptroller General and Contract Audit, in all correspondence.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2022–27433 Filed 12–16–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0161; Docket No. 2022–0053; Sequence No. 23]

Information Collection; Reporting Purchases From Sources Outside the United States

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning reporting purchases from sources outside the United States. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through May 31, 2023. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by February 17, 2023.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0161, Reporting Purchases from Sources Outside the United States. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0161, Reporting Purchases from Sources Outside the United States.

B. Need and Uses

This clearance covers the information that offerors must submit to comply

with the FAR provision 52.225–18, Place of Manufacture. This provision requires offerors of manufactured end products to indicate in response to a solicitation, by checking a box, whether the place of manufacture of the end products it expects to provide is predominantly manufactured in the United States or outside the United States. Contracting officers use the information as the basis for entry into the Federal Procurement Data System for further data on the rationale for purchasing foreign manufactured items. The data is necessary for analysis of the application of the Buy American statute and the trade agreements.

C. Annual Burden

Respondents: 50,106.

Total Annual Responses: 2,600,361.

Total Burden Hours: 26,004.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov*. Please cite OMB Control No. 9000–0161, Reporting Purchases from Sources Outside the United States, in all correspondence.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2022–27430 Filed 12–16–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–OH–22–002, NIOSH Centers for Agricultural Safety and Health.

Date: March 7, 2023.

Time: 11:00 a.m.–6:00 p.m., EST.

Place: Video-Assisted Meeting.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Marilyn Ridenour, B.S.N., M.P.H., Scientific Review Officer, Office of Extramural Programs, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, Morgantown, West Virginia, 26505; Telephone: (304) 285–5879; Email: *MRidenour@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–27454 Filed 12–16–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3429–FN]

Medicare and Medicaid Programs: Application From the Center for Improvement in Healthcare Quality for Continued Approval of Its Hospital Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces our decision to approve the Center for Improvement in Healthcare Quality (CIHQ) for continued recognition as a national accrediting organization for hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: The decision announced in this notice is applicable January 1, 2023 through January 1, 2028.

FOR FURTHER INFORMATION CONTACT:

Erin Imhoff, (410) 786–2337.

Caecilia Blondiaux, (410) 786–2190.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a hospital, provided certain requirements are met. Section 1861(e) of the Social Security Act (the Act) establishes statutory authority for the Secretary of the Department of Health and Human Services (Secretary) to set distinct criteria for facilities seeking designation as a hospital. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 482 specify the minimum conditions of participation that a hospital must meet to participate in the Medicare program.

Generally, to enter into an agreement, a hospital must first be certified by a state survey agency (SA) as complying with the conditions or requirements set forth in part 482 of our regulations. Thereafter, the hospital is subject to regular surveys by a SA to determine whether it continues to meet these requirements.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by a Centers for Medicare & Medicaid Services (CMS) approved national accrediting organization (AO) that all applicable Medicare requirements are met or exceeded, we will deem those provider entities as having met such requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of the Department of Health and Human Services (the Secretary) as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare requirements. A national AO applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare requirements. Our regulations concerning the approval of AOs are set forth at §§ 488.4, 488.5 and 488.5(e)(2)(i). The regulations at § 488.5(e)(2)(i) require AOs to reapply for continued approval of its accreditation program every 6 years or sooner, as determined by CMS.

Center for Improvement in Healthcare Quality (CIHQ)'s current term of approval for their hospital accreditation program expires July 26, 2023. As discussed in the proposed notice (87 FR 43525), CIHQ submitted its application for renewal earlier than expected and therefore CMS will adjust their future term of approval accordingly.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On July 21, 2022, we published a proposed notice in the **Federal Register** (87 FR 43525), announcing CIHQ's request for continued approval of its Medicare hospital accreditation program. In that proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at §§ 488.5 and 488.8(h), we conducted a review of CIHQ's Medicare hospital accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An administrative review of CIHQ's: (1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its CIHQ facility surveyors; (4) ability to investigate and respond appropriately to complaints against accredited CIHQ facilities; and (5) survey review and decision-making process for accreditation.
- A review of CIHQ's survey processes to confirm that a provider or supplier, under CIHQ's hospital deeming accreditation program, meets or exceeds the Medicare program requirements.
- A documentation review of CIHQ's survey process to do the following:

++ Determine the composition of the survey team, surveyor qualifications, and CIHQ's ability to provide continuing surveyor training.

++ Compare CIHQ's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against CIHQ accredited hospitals.

++ Evaluate CIHQ's procedures for monitoring accredited hospitals it has found to be out of compliance with its program requirements.

++ Assess CIHQ's ability to report deficiencies to the surveyed hospitals and respond to the hospitals plan of correction in a timely manner.

++ Determine the adequacy of CIHQ's staff and other resources.

++ Confirm CIHQ's ability to provide adequate funding for performing required surveys.

++ Confirm CIHQ's policies with respect to surveys being unannounced.

++ Confirm CIHQ's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ Obtain CIHQ's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

IV. Analysis of and Responses to Public Comments on the Proposed Notice

In accordance with section 1865(a)(3)(A) of the Act, the July 21, 2022 proposed notice also solicited public comments regarding whether CIHQ's requirements met or exceeded the Medicare conditions of participation for hospitals. We received approximately 19 timely public comments from hospitals and individuals, and another that was out of scope of the proposed rule.

Comment: Most commenters expressed support for CIHQ and their hospital accreditation program and encouraged CMS to approve them for continued recognition as a national AO for hospitals.

Response: We appreciate the support from those hospitals who have experience with CIHQ's Medicare hospital accreditation program and agree that CIHQ should be approved for continued recognition as a national AO for hospitals that wish to participate in the Medicare or Medicaid programs.

Comment: A commenter expressed concern about hospital accreditation programs overall and the responsibility of CMS to oversee the process. The comment was not specific to CIHQ.

Response: We appreciate this comment and the concern for patient safety and quality of care. We continue to prioritize patient safety and our responsibility for oversight of AOs. As described in section III. Provisions of the Proposed Notice of this notice, CMS takes various steps when considering whether to approve or not approve a national AO. Each AO wishing to be recognized by Medicare as a national AO must go through a rigorous process for CMS approval. We remain steadfast in our commitment to keeping the public informed of our evaluation process for AOs seeking approval from CMS.

Comment: A commenter expressed concern for paying out of pocket for chronic diseases.

Response: We thank the commenter for expressing concern, but this comment is outside the scope of the notice.

Final Decision: After consideration of the public comments received, we are finalizing our decision to approve CIHQ's application for continued recognition as a national AO for hospitals that wish to participate in the Medicare or Medicaid programs.

V. Provisions of the Final Notice

A. Differences Between CIHQ's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared CIHQ's hospital accreditation requirements and survey process with the Medicare conditions of participation of part 482, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of CIHQ's renewal application, which were conducted as described in section III. of this final notice, yielded the following areas where, as of the date of this notice, CIHQ has completed revising its standards and certification processes in order to—

- Meet the requirements of all of the following Medicare regulations:

++ Section 482.41(a)(1), to include the appropriate Life Safety Code (LSC) references that address hospitals classified as new occupancies.

++ Section 482.41(b)(1)(i), to include the appropriate National Fire Protection Agency (NFPA) 101 requirements for hospitals classified as Business Occupancies.

++ Section 482.41(d)(4), to include compliance with the 2008 American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 170—Ventilation of Health Care Facilities, in accordance with 2012

NFPA requirements and to ensure sterile supply and medical equipment manufacturer instructions for use (IFUs) are considered before hospitals reduce relative humidity levels.

++ Section 488.5(a)(3), to correct formatting and technical errors in the crosswalk as requested by CMS.

In addition to the standards review, CMS reviewed CIHQ's comparable survey processes, which was conducted as described in section III. of this notice, and also reviewed corporate policies, which yielded the following areas where, as of the date of this notice, CIHQ has completed revising its survey processes to demonstrate that it uses survey processes that are comparable to state survey agency processes by:

++ Revising Facility & Life Safety worksheets for surveyors to explain that the worksheet does not include all 2012 LSC & Health Care Facilities Code requirements in accordance with survey comparability at § 488.5(a)(4)(ii).

++ Providing additional training to surveyors related to the number of medical records that should be reviewed during the survey of larger hospitals in accordance with survey comparability at § 488.5(a)(4)(ii).

++ Improving the level of detail in survey documentation in accordance with survey comparability at § 488.5(a)(4)(ii).

++ Providing CMS with the job description required for CIHQ's LSC Consultants in accordance with the description of education and experience requirements surveyors must meet at § 488.5(a)(7).

++ Revising complaint procedures to ensure the survey investigation process is clearly documented in accordance with the organizations complaint procedures at § 488.5(a)(12).

B. Term of Approval

Based on our review and observations described in section III. and section V. of this notice, we approve CIHQ as a national accreditation organization for hospitals that request participation in the Medicare program. The decision announced in this notice is effective January 1, 2023 through January 1, 2028 (5 years). Due to the timing of the start of the fiscal year and associated travel restrictions, CMS was unable to conduct a hospital survey observation of CIHQ surveyors in accordance with 42 CFR 488.8(h), which is one component of the comparability evaluation. Therefore, we are providing CIHQ with a reduced term of approval. In accordance with 42 CFR 488.5(e)(2)(i), CMS may not give a term of the approval that exceeds 6 years.

Based on our discussions with CIHQ and the information provided in its application, we are confident that CIHQ will continue to ensure that its deemed hospitals will continue to meet or exceed Medicare standards. Additionally, CIHQ has applied for critical access hospital deeming authority and as part of that application we will complete a survey observation. Critical access hospitals have similar CoPs and survey process to hospitals and therefore we are confident in a 5-year approval term for this application.

VI. Collection of Information and Regulatory Impact Statement

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 for purposes of publication in the **Federal Register**.

Dated: December 14, 2022.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–27465 Filed 12–16–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–2810]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (VRBPAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. On January 26, 2023, the committee will meet in open session to discuss the future vaccination regimens addressing COVID–19. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on January 26, 2023, from 8:30 a.m. to 5:30 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings, including information regarding special accommodations due to a disability, may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.* The online web conference meeting will be available at the following link on the day of the meeting: *https://youtu.be/ZjULNuSYfd0.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–2810. Please note that late, untimely filed comments will not be considered. The docket will close on January 25, 2023. Either electronic or written comments on this public meeting must be submitted by January 25, 2023. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 25, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before January 18, 2023, will be provided to the committee. Comments received after January 18, 2023, and by January 25, 2023, will be taken into consideration by FDA. In the event that the meeting is canceled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2022–N–2810 for ''Vaccines and Related Biological Products Advisory Committee (VRBPAC); Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA 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 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 the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Sussan Paydar or Prabhakara Atreya, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 240–506–4946, *CBERVRBPAC@fda.hhs.gov;* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On January 26, 2023, the committee will meet in open session to discuss the future vaccination regimens addressing COVID–19. This discussion will include consideration of the composition and schedule of the primary series and booster vaccinations.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the time of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Dockets (see **ADDRESSES**) on or before January 18, 2023, will be provided to the committee. Comments received after January 18, 2023, and by January 25, 2023, will be taken into consideration by FDA. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, along with their names, email addresses, and direct contact phone numbers of proposed participants, on or before 12 p.m. Eastern Time on January 18, 2023. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by 6 p.m. Eastern Time January 20, 2023.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Sussan Paydar or Prabhakara Atreya (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on

public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 13, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–27428 Filed 12–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–1998–D–0038]

Evaluating the Safety of Antimicrobial New Animal Drugs With Regard to Their Microbiological Effects on Bacteria of Human Health Concern; Revised 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 #152 entitled ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to Their Microbiological Effects on Bacteria of Human Health Concern.'' This draft guidance informs stakeholders about FDA's current method for evaluating potential microbiological effects of antimicrobial new animal drugs on bacteria of human health concern as part of the new animal drug application process.

DATES: Submit either electronic or written comments on the draft guidance by March 20, 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–1998–D–0038 for ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to Their Microbiological Effects on Bacteria of Human Health Concern.'' 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 guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. 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: Ruby Singh, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0794, *ruby.singh@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry #152 entitled ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to their Microbiological Effects on Bacteria of Human Health Concern.'' Antimicrobial drugs have been used since the mid-20th century to control and cure infectious diseases in humans. Since their discovery, these drugs have prevented millions of human deaths worldwide, they have helped to promote animal health, and they have helped to provide an abundant and affordable supply of meat, milk, and eggs. Soon after antimicrobial drugs became widely available, scientists noted that their use could contribute to the emergence and selection of antimicrobial resistance in bacteria, thereby reducing the effectiveness of the

antimicrobial drugs. To address the human health risks surrounding the use of antimicrobial new animal drugs, in 2003, FDA issued Guidance for Industry (GFI) #152, entitled ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to their Microbiological Effects on Bacteria of Human Health Concern.''

GFI #152 outlines a qualitative risk assessment methodology as a process for evaluating foodborne antimicrobial resistance concerns related to the use of antimicrobial drugs in food-producing animals. GFI #152 also contains an appendix, commonly referred to as ''Appendix A,'' in which FDA ranks antimicrobial drugs according to their relative importance to human medicine: ''critically important,'' ''highly important,'' or ''important.''

The current list of medically important antimicrobial drugs in Appendix A reflects FDA's thinking at the time of publication, in 2003. It was envisioned at the time of publication of GFI #152 that the Agency would reassess the rankings provided in Appendix A periodically to confirm that the rankings are consistent with contemporary practices and needs. As noted in GFI #152, the development of new antimicrobial drugs for human therapy, the emergence or re-emergence of diseases in humans, and changes in prescribing practices, are some factors that may cause the human medical importance rankings to change over time.

Given the considerable advances in science that have taken place since 2003, new relevant information has become available. In light of those advances and the new information now available, FDA published a notice in the **Federal Register** of October 13, 2020 (85 FR 64481), announcing a public meeting and requesting comments on a concept paper entitled ''Potential Approach for Ranking of Antimicrobial Drugs According to Their Importance in Human Medicine: A Risk Management Tool for Antimicrobial New Animal Drugs.''

FDA received more than 60 comment submissions from pharmaceutical companies, academia, organizations, and private citizens on this concept paper. FDA has considered all comments and is issuing this draft guidance document, which contains revised sections in the risk assessment framework, including updated tables and figures, and a revised Appendix A based on new ranking criteria of antimicrobials according to their importance in human medicine.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to their Microbiological Effects on Bacteria of Human Health Concern.'' 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 part 514 have been approved under OMB control number 0910–0032.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: December 13, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–27415 Filed 12–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–4040–0005]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before January 18, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sagal Musa, *sagal.musa@hhs.gov* or (202) 205–2634. When submitting comments or requesting information, please include the document identifier 4040–0005–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collections: Application for Federal Domestic Assistance—Individual.

Type of Collection: Renewal.

OMB No.: 4040–0005.

Abstract: The Application for Federal Assistance—Individual form provides the Federal grant-making agencies an alternative to the Standard Form 424 data set and form. Agencies may use Application for Federal Assistance—Individual form for grant programs not required to collect all the data that is required on the SF–424 core data set and form.

Type of respondent: The Application for Federal Assistance—Individual form is used by organizations to apply for Federal financial assistance in the form of grants. This form is submitted to the Federal grant-making agencies for evaluation and review. This IC expires on January 31, 2023. *Grants.gov* seeks a three-year clearance of these collections.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Application for Federal Assistance—Individual.	Grant Applicants	100	1	1	100
Total		100	1	1	100

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–27463 Filed 12–16–22; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–4040–0020]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before January 18, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sagal Musa, *sagal.musa@hhs.gov* or (202) 205–2634. When submitting comments or requesting information, please include the document identifier 4040–0020–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collections: SF–424 Mandatory Form.

Type of Collection: Renewal.

OMB No.: 4040–0020.

Abstract: The Standard 424 Mandatory form provides the Federal grant-making agencies an alternative to the Standard Form 424 data set and form. Agencies may use SF–424 Mandatory Form for grant programs not required to collect all the data that is required on the SF–424 core data set and form.

Type of respondent: The SF–424 Mandatory form is used by organizations to apply for Federal financial assistance in the form of grants. This form is submitted to the Federal grant-making agencies for evaluation and review. This IC expires on January 31, 2023. *Grants.gov* seeks a three-year clearance of these collections.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
SF424 Mandatory Form	Grant Applicants	5,761	1	1	5,761
Total		5,761	1	1	5,761

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–27464 Filed 12–16–22; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; NCATS CTSA Training Grants Review Meeting.

Date: January 25, 2023.

Time: 10:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nakia C. Brown, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, 301–827–4905, *brownnac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry

Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: December 13, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27423 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Network of Diagnostic Biomarkers, Imaging research project for AD/ADRD patients with Multiple Chronic Conditions (MCCs).

Date: February 9, 2023.

Time: 1:00 p.m. to 2:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rajasri Roy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6477 *rajasri.roy@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27424 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; NIA Pepper Center Review.

Date: February 23, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rajasri Roy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6477, *rajasri.roy@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27420 Filed 12–16–22; 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; Small Business: Cardiovascular and Surgical Devices.

Date: January 5, 2023.

Time: 10:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Willard Wilson, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–867–5309, *willard.wilson@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: December 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27425 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; R61/R33 Fast Track

Exploration/Development: Data-Driven Tools to Accelerate the Clinical Translation of Novel DOC Biomaterials.

Date: January 27, 2023.

Time: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental and Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aiwu Cheng, Ph.D., MD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892, *Aiwu.cheng@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; T32/T90 Applications Review Meeting.

Date: February 2, 2023.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental and Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nisan Bhattacharyya, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite 668, Bethesda, MD 20892, 301–451–2405, *nisan_bhattacharyya@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 13, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27419 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Emergency Department leading the transformation of Alzheimer's and Dementia Care (ED–LEAD).

Date: February 16, 2023.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rajrasi Roy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6477 *rajasri.roy@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27422 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Sex Differences in AD Risk.

Date: January 26, 2023.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Greg Bissonette, Ph.D., Scientific Review Officer, National Institute On Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–1622, *bissonettegb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27427 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Study Section.

Date: March 7, 2023.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892.

Contact Person: Philippe Marmillot, Ph.D., Scientific Review Officer, Extramural Project Review Branch, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2118, MSC 6902, Bethesda, MD 20892, 301–443–2861, *marmillotp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: December 13, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27418 Filed 12–16–22; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Survivorship Needs of Individuals with Advanced Cancer.
Date: January 12, 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*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP 8A: Contract Review Meeting.
Date: February 1, 2023.
Time: 9:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W030, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Ivan Ding, M.D., Health Scientist Administrator, Program and Review Extramural Staff Training Office, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W534, Rockville, Maryland 20850, 240–276–6444, *dingi@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Integrating Biospecimen Science Approaches into Clinical Assay Development.
Date: February 1, 2023.
Time: 11:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W246, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W246, Rockville, Maryland 20850, 240–276–5460, *jfang@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP 8B: SBIR Review Meeting.
Date: February 2, 2023.
Time: 9:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W030, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Ivan Ding, M.D., Health Scientist Administrator, Program and Review Extramural Staff Training Office, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W534, Rockville, Maryland 20850, 240–276–6444, *dingi@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Development of Informatics Technologies for Cancer Research and Management.
Date: February 2, 2023.
Time: 11:00 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 7W246, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W246, Rockville, Maryland 20850, 240–276–5460, *jfang@mail.nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group; Institutional Training and Education Study Section (F).
Date: February 22–23, 2023.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute 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; NCI Outstanding Investigator Award (R35).
Date: February 23–24, 2023.
Time: 9:00 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 7W104, Rockville, Maryland 20850 (Virtual Meeting).
Contact Person: David G. Ransom, Ph.D., Chief, Scientific Review Officer, Special Review Branch Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W104, Rockville, Maryland 20850, 240–276–6351, *david.ransom@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP–3: SBIR Contract Review Meeting.
Date: February 24, 2023.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Cancer Institute 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 Cancer Moonshot Scholars Diversity Program R01 Meeting.
Date: March 1–2, 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 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 Research Specialist Award (R50).
Date: March 2–3, 2023.
Time: 10:00 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 7W242, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Zhiqiang Zou, M.D., Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W242, Rockville, Maryland 20850, 240–276–6372, *zouzhiq@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP–7: SBIR Contract Review.

Date: March 2, 2023.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W608, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W608, Rockville, Maryland 20850, 240–276–5856, *nadeem.khan@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Patient Derived Xenograft (PDX) Development and Trial Centers (PDTCs) Network (U54 and U24).
Date: March 2–3, 2023.
Time: 10:00 a.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Byeong-Chel Lee, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850, 240–276–7755, *byeong-chel.lee@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP–1: SBIR Contract Review: Development of Senotherapeutic Agents for Cancer Treatment.
Date: March 8, 2023.
Time: 11:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W246, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W246, Rockville, Maryland 20850, 240–276–5460, *jfang@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP–2: SBIR Contract Review.
Date: March 9, 2023.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate contract proposals.
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 Research Specialist (Clinical Scientist) Award (R50).
Date: March 10, 2023.
Time: 12:00 p.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 7W242, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Zhiqiang Zou, M.D., Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W242, Rockville, Maryland 20850, 240–276–6372, *zouzhiq@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–4: NCI Clinical and Translational Cancer Research.
Date: March 15, 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: E. Tian, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room7W618, Rockville, Maryland 20850, 240–276–6611, *tiane@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–9: NCI Clinical and Translational Cancer Research.
Date: March 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 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–3: NCI Clinical and Translational Cancer Research.
Date: March 23, 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 7W126, 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 7W126, Rockville, Maryland 20850, 240–276–6611, *mukesh.kumar3@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–1: NCI Clinical and Translational Cancer Research.
Date: March 29, 2023.
Time: 11:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Caterina Bianco, M.D., Ph.D., Chief, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850, 240–276–6459, *biancoc@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: December 13, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27417 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; SBIR Contract Review.
Date: January 24, 2023.
Time: 1:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).
Contact Person: Zhihong Shan, Ph.D., MD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health,

6705 Rockledge Drive, Room 205–J, Bethesda, MD 20892, (301) 827–7085, *zhihong.shan@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: December 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27426 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Genetic Variation and Aging.

Date: January 31, 2023.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Greg Bissonette, Ph.D. Scientific Review Officer, National Institute of Aging, National Institute of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–1622, *bissonettegb@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–27421 Filed 12–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0098]

NAFTA Regulations and Certificate of Origin

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted no later than February 17, 2023 to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0098 in the subject line and the agency name. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov.*

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: NAFTA Regulations and Certificate of Origin.

OMB Number: 1651–0098.

Form Number: 434, 446, and 447.

Current Actions: This submission is being made to extend the expiration dates for CBP Forms 434, 446, and 447 with no change to the estimated burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: On December 17, 1992, the U.S., Mexico and Canada entered into an agreement, the North American Free Trade Agreement (NAFTA). The provisions of NAFTA were adopted by the U.S. with the enactment of the North American Free Trade Agreement Implementation Act of 1993 (Pub. L. 103–182, 107 Stat. 2057).

CBP Form 434, *North American Free Trade Agreement Certificate of Origin,* is used to certify that a good being exported either from the United States into Canada or Mexico or from Canada or Mexico into the United States qualifies as an originating good for purposes of preferential tariff treatment under NAFTA. This form is completed by exporters and/or producers and furnished to CBP upon request. CBP Form 434 is provided for by 19 CFR 181.11, 181.22, and is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

CBP Form 446, *NAFTA Verification of Origin Questionnaire,* is used by CBP personnel to gather sufficient information from exporters and/or producers to determine whether goods imported into the United States qualify as originating goods for the purposes of preferential tariff treatment under NAFTA. CBP Form 446 is provided for by 19 CFR 181.72 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

CBP Form 447, *North American Free Trade Agreement Motor Vehicle Averaging Election,* is used to gather information required by 19 CFR 181 appendix, section 11(2) ''Information Required When Producer Chooses to Average for Motor Vehicles''. This form is provided to CBP when a manufacturer chooses to average motor vehicles for the purpose of obtaining NAFTA preference. CBP Form 447 is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

This information is collected from members of the trade community who are familiar with the CBP regulations.

Type of Information Collection: NAFTA Certificate of Origin (Form 434).

Estimated Number of Respondents: 13,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 13,000.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 26,000.

Type of Information Collection: NAFTA Questionnaire (Form 446).

Estimated Number of Respondents: 400.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 400.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 800.

Type of Information Collection: NAFTA Motor Vehicle Averaging Election.

Estimated Number of Respondents: 11.

Estimated Number of Annual Responses per Respondent: 1.28.

Estimated Number of Total Annual Responses: 14.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 14.

Dated: December 14, 2022.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2022–27410 Filed 12–16–22; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Committee management; request for applicants for appointment to the Board of Visitors for the National Fire Academy.

SUMMARY: The National Fire Academy (Academy) is requesting individuals who are interested in serving on the Board of Visitors for the National Fire Academy (Board) to apply for appointments as identified in this notice. Pursuant to the Federal Fire Prevention and Control Act of 1974, the Board shall review annually the programs of the Academy and shall make recommendations to the Federal Emergency Management Agency (FEMA) Administrator, through the United States Fire Administrator, regarding the operation of the Academy and any improvements that the Board deems appropriate. The Board is composed of eight members, all of whom have national or regional leadership experience in the fields of fire safety, fire prevention (such as community risk reduction to include wildland urban interface), fire control, research and development in fire protection, treatment and rehabilitation of fire victims, or local government services management, which includes emergency medical services. The Academy seeks to appoint seven individuals to a position on the Board that will be open due to term expiration. If other positions are vacated during the application process, candidates may be selected from the pool of applicants to fill the vacated positions.

DATES: Resumes will be accepted until 11:59 p.m. EST January 18, 2023.

ADDRESSES: The preferred method of submission is via email. However, resumes may also be submitted by mail. Please choose one submission method only:

- *Email: FEMA-NFABOV@fema.dhs.gov.*
- *Mail:* National Fire Academy, U.S. Fire Administration, Attention: Debbie Gartrell-Kemp, 16825 South Seton Avenue, Emmitsburg, Maryland 21727–8998.

FOR FURTHER INFORMATION CONTACT: *Designated Federal Officer:* Eriks Gabliks, (301) 447–1117, *Eriks.Gabliks@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Board is an advisory committee established in accordance with the provision of the Federal Advisory Committee Act (FACA), 5 U.S.C. appendix. The purpose of the Board is to review annually the programs of the Academy and advise the FEMA Administrator on the operation of the Academy and any improvements therein that the Board deems appropriate. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions approved by the FEMA Administrator, examines the physical plant of the Academy to determine the adequacy of the Academy's facilities, and examines funding levels for Academy programs. The Board submits a written report through the United States Fire Administrator to the FEMA Administrator annually. The report provides detailed comments and recommendations regarding the Academy's operations.

Individuals interested in serving on the Board are invited to apply for consideration for appointment. There is no application form; however, a current resume and statement of interest will be required. The appointment shall be for a term of up to three years. Individuals selected for the appointment shall serve as Special Government Employees (SGEs), defined in section 202(a) of title 18, United States Code. Appointments may impact the ability to receive certain Federal contracts. Candidates selected for the appointment will be required to complete a Confidential Financial Disclosure Form (U.S. Office of Government Ethics (OGE) Form 450) every year and receive yearly ethics training from the Component Ethics Office.

The Board shall meet as often as needed to fulfill its mission, but not less than twice each fiscal year to address its objectives and duties. The Board will meet in person at least once each fiscal year with additional meetings held via teleconference. Board members may be reimbursed for travel and per diem incurred in the performance of their duties as members of the Board. All travel for Board business must be

approved in advance by the Designated Federal Officer. To the extent practical, Board members shall serve on any subcommittee that is established.

FEMA does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. FEMA strives to achieve a diverse candidate pool for all its recruitment actions.

Current DHS employees, contractors, and potential contractors will not be considered for membership. Federally registered lobbyists will not be considered for appointments.

Eriks Gabliks,

Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2022–27442 Filed 12–16–22; 8:45 am]

BILLING CODE 9111–74–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Approval of Tribal-State Class III Gaming Compacts in the State of North Dakota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Amended Gaming Compact between the Three Affiliated Tribes of the Fort Berthold Reservation and the State of North Dakota and the Amended Gaming Compact between the Standing Rock Sioux Tribe and the State of North Dakota (Amendments) governing class III gaming for the Three Affiliated Tribes of the Fort Berthold Reservation and the Standing Rock Sioux Tribe (Tribes) in the State of North Dakota (State).

DATES: The Amendments take effect on December 19, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendments waive the State's Eleventh Amendment immunity if the parties negotiate a successor compact, thereby permitting enforcement of the good faith negotiation provisions in IGRA. If a successor compact is not successfully concluded, the existing compact will remain effective throughout IGRA's remedial process. The Amendments also add electronic poker games, sports book event wagering, any class III gaming authorized by State law, and mobile gaming within tribal lands. The Amendments are approved.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–27470 Filed 12–16–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/ A0A501010.999900]

San Carlos Irrigation Project—Power Division, Arizona Power Rate Adjustment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) has adjusted its electric power rates for the Power Division of San Carlos Irrigation Project (SCIP/PD).

DATES: The 2023 electric power rates are effective on January 18, 2023.

FOR FURTHER INFORMATION CONTACT: For details about SCIP/PD, please contact Ferris Begay, Project Manager, San Carlos Irrigation Project, 13805 N Arizona Blvd., Coolidge, AZ 85128, (520) 723–6225.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rate Adjustment was published in the **Federal Register** on February 10, 2022 (87 FR 7863) to propose adjustments to the electric power rates at SCIP/PD. The public and interested parties were provided an opportunity to submit written comments during the 60-day period that ended April 11, 2022.

Did BIA defer or change any proposed rate increases?

Yes. BIA will not implement the proposed 2022 rates. The final 2023 rates will be implemented as proposed.

Did BIA receive any comments on the proposed electric power rate adjustments?

Yes. BIA received nine (9) written comment submissions related to the proposed rate adjustments for SCIP/PD.

What issues were of concern to the commenters?

Written comments relating the proposed rate adjustment were received by letter and email. BIA's summary of the issues and BIA's responses are provided below:

Comment: Commenters state a general opposition to the proposed electric power rate adjustments.

Response: As noted when rates were proposed in the **Federal Register** on February 10, 2022 (87 FR 7863), BIA is required to establish power assessment rates that recover the costs to administer, operate, maintain, and rehabilitate our projects. As owner of SCIP/PD, it is our responsibility to ensure adequate resources are made available to meet the requirements noted above. BIA's authority to assess rates dates to the Act of March 7, 1928 (45 Stat. 210–212) *as amended,* and 25 U.S.C. 385c, and is addressed in BIA's regulations at 25 CFR 175. BIA must systematically review and evaluate power assessment rates and adjust them, when necessary, to reflect the full cost to operate and perform all appropriate maintenance to ensure safe and reliable service. If this review and adjustment is not accomplished, a rate deficiency can accumulate over time. Rate deficiencies force BIA to raise assessment rates in larger increments over shorter periods than would have otherwise been necessary.

SCIP/PD's assessment rates remained the same from 2007 to 2021 and did not keep up with the full cost of providing electrical service, the costs of system improvements, and the significant increase in purchased power costs. As a result, SCIP/PD exhausted its reserve fund in 2021. These circumstances required BIA to review and evaluate its assessment rates, implement a purchased power cost adjustment, and propose electric power rate adjustments to reflect the full cost to operate and perform all appropriate maintenance to ensure safe and reliable service. The SCIP/PD budget, upon which the proposed electric power rate adjustment is based, was prepared in accordance with BIA financial guidelines. BIA considers the following items when determining a power project's budget: operation and maintenance costs, maintenance of reserve funds, repair and replacement costs, defraying

emergency expenses, ensuring continuous operation of the system, and other expenses.

SCIP/PD's present assessment rates do not allow us to collect enough revenues to meet our financial and statutory requirements. SCIP/PD's costs have risen in part due to changing economics, decreased availability of power supplies, increased purchased power costs, rising natural gas prices, and weather-related and climate events. Additionally, because SCIP/PD's service area is rural, the electrical system has a large amount of overhead power lines with limited redundancy and constant exposure to weather elements. Based on increased purchased power costs and expenses associated with operating, maintaining, and rehabilitating SCIP/PD, the need for the proposed electric power rate increase is clear and justified.

Comment: Seven commenters state no rate increase should be made at this time because of the COVID–19 pandemic and state of the economy. One commenter suggested delaying the rate increase until after this year's hot summer months.

Response: While the **Federal Register** on February 10, 2022 (87 FR 7863) stated we intended to implement rates in June 2022, BIA will not implement the proposed 2022 rates. The final 2023 rates will be implemented as proposed. Unfortunately, the costs associated with operating and maintaining SCIP/PD have increased during the COVID–19 pandemic. Moreover, the current state of the economy and inflation have accelerated SCIP/PD's rising purchased power, supplies, materials, and equipment expenses. We simply cannot sustain SCIP/PD if we do not implement the rate increases.

Comment: Three commenters state the proposed electric power rate increases are inappropriate on top of the 2021 purchased power cost adjustment.

Response: SCIP/PD's present electric power rates were implemented in 2006, and BIA proposed to increase these rates. All power costs are included in our proposed 2023 electric power rates. Separately, in September 2021, BIA implemented a purchased power cost adjustment of $.031 per kilowatt-hour on top of our electric power rates. The 2021 adjustment was necessary because the price of BIA's purchased power increased by 218% over a one-year period. The 2021 adjustment will end when the proposed 2023 rates become effective. Purchased power cost adjustments do not follow the procedure for adjusting electric power rates because unforeseen increases in the cost of purchased power are: (a) not under our control; (b) determined by current market rates; and (c) subject to market fluctuations that can occur at an undetermined time and frequency.

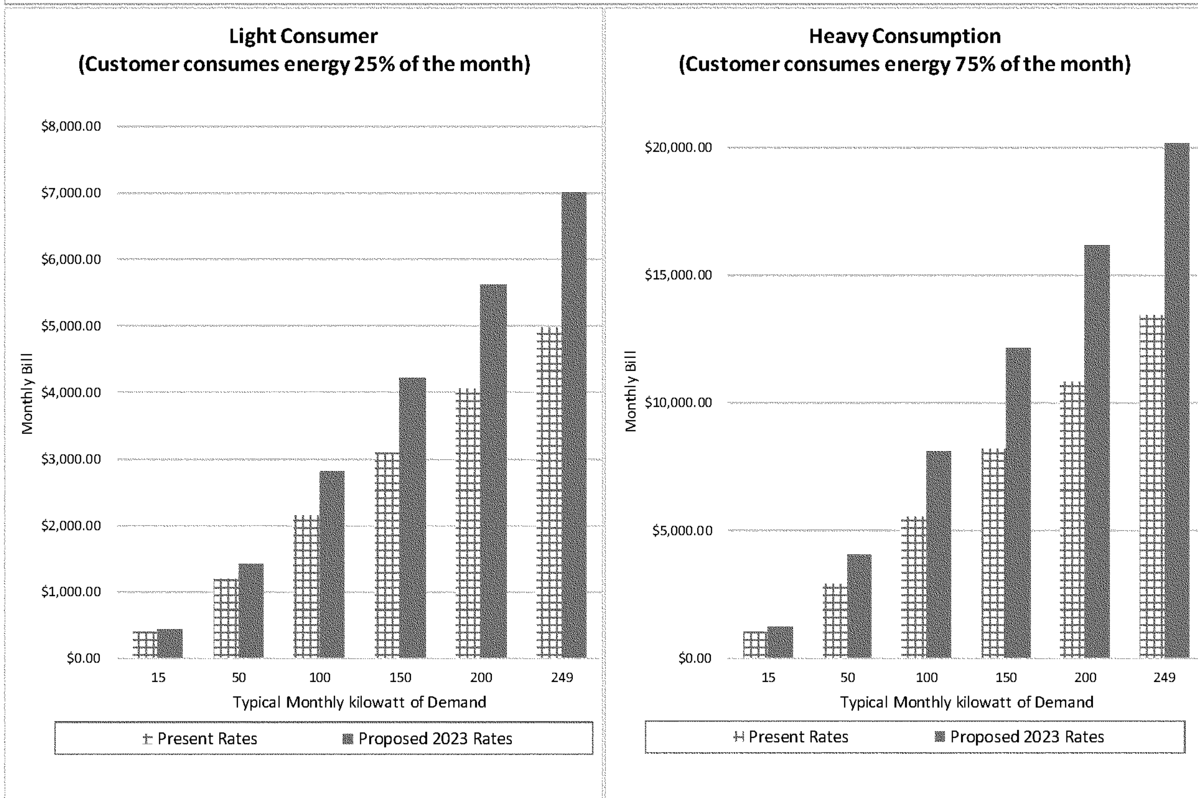
Comment: Five commenters object to the rate increases for residential customers because their monthly bills are already too high. Commenters estimate residential bills will increase by at least $41 per month.

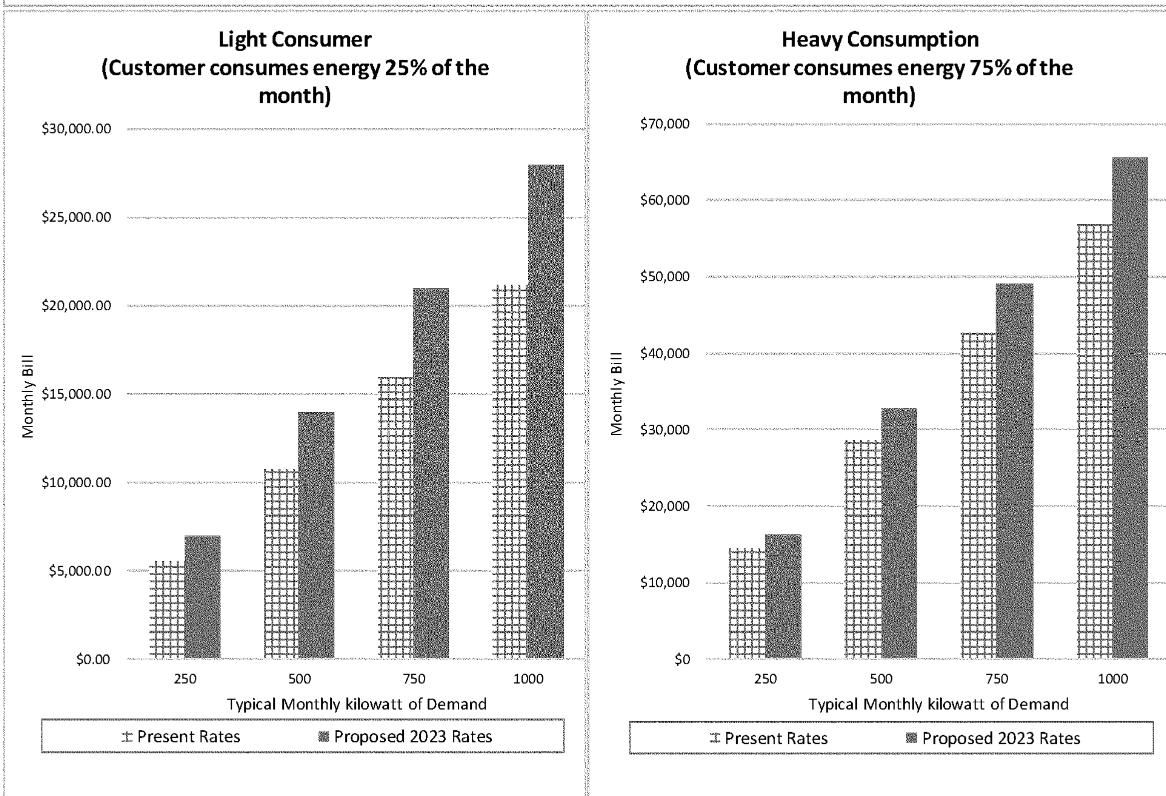
Response: Under the proposed 2023 rates, the average residential bill will increase by $4.08 or 3.2% per month. During SCIP/PD's peak summer month, the average residential bill will increase by $14.23 or 7.2% per month. The below tables display the average residential monthly bills under the present and proposed 2023 rates. Bill increases will be higher for residential customers with above average energy consumption and demand.

	Present rates	Proposed 2023 rates
Average residential bill		
900 kilowatt-hours	$127.90	$131.98
% Increase		3.2%
$ Increase		$4.08
Average residential bill in peak summer month		
1,474 kilowatt-hours	$197.35	$211.59
% Increase		7.2%
$ Increase		$14.23

Comment: Two commenters object to the rate increases for small and large commercial customers. One commenter estimates their commercial bills will increase by 46%.

Response: Under the proposed 2023 commercial rates, the average commercial monthly bill will increase by 15–20%. For commercial customers with the heaviest energy consumption and demand, their monthly bills may increase by more than 46%. The below graphs display a range of bill increases under the proposed 2023 small and large commercial rates.


SCIP/PD Small Commercial Customer - Bill Comparison by Customer Size
Light Consumer
(Customer consumes energy 25% of the month)
$8,000.00
$7,000.00
$6,000.00
$5,000.00
$4,000.00
$3,000.00
$2,000.00
$1,000.00
$0.00
Monthly Bill
15
50
100
150
200
249
Typical Monthly kilowatt of Demand
Present Rates
Proposed 2023 Rates
Heavy Consumption
(Customer consumes energy 75% of the month)
$20,000.00
$15,000.00
$10,000.00
$5,000.00
$0.00
Monthly Bill
15
50
100
150
200
249
Typical Monthly kilowatt of Demand
Present Rates
Proposed 2023 Rates


SCIP/PD Large Commercial Customer - Bill Comparison by Customer Size
Light Consumer
(Customer consumes energy 25% of the month)
$30,000.00
$25,000.00
$20,000.00
$15,000.00
$10,000.00
$5,000.00
$0.00
Monthly Bill
250
500
750
1000
Typical Monthly kilowatt of Demand
Present Rates
Proposed 2023 Rates
Heavy Consumption
(Customer consumes energy 75% of the month)
$70,000
$60,000
$50,000
$40,000
$30,000
$20,000
$10,000
$0
Monthly Bill
250
500
750
1000
Typical Monthly kilowatt of Demand
Present Rates
Proposed 2023 Rates

SCIP/PD's present rates decline, meaning power gets less expensive as more power is consumed. SCIP/PD's proposed 2023 rates are flat, meaning each kilowatt-hour consumed is the same price. Flat rates are common in the electric power industry and encourage conservation. SCIP/PD's move to a flat rate structure is reflective of changes in the present market for purchasing power, which is impacted by power supply scarcity and higher fuel prices. Flat rates ensure all energy consumed is evenly priced and reflective of SCIP/PD's cost of purchasing power.

Under the present rates, SCIP/PD's heaviest consumers benefit from the declining block energy tiers. For example, a typical small commercial customer—with 15 kilowatt of demand that consumes energy for 75% of the hours in a month—will use energy priced at SCIP/PD's cheapest energy tier of $.09 per kilowatt-hour. Whereas a small commercial customer—with 15 kilowatt of demand that consumes energy for 25% of the hours in a month—is unlikely to use energy priced at SCIP/PD's cheapest energy tier and instead pays $.013 per kilowatt-hour. Under the proposed 2023 rates, all small commercial customers will pay $0.1412 per kilowatt-hour regardless of hours consumed in a month.

To keep residential and small commercial rates similar to surrounding utilities, SCIP/PD's heaviest consumers will experience the greatest bill increases under the 2023 rates. We believe large commercial and industrial customers are better able to absorb rate increases than SCIP/PD's residential and small commercial customers.

Comment: Five commenters object to proposed increases considering SCIP/PD's frequent power outages and unreliable service.

Response: SCIP/PD's power outages are the result of aging infrastructure, vandalism, wildlife, vehicular accidents, planned maintenance, and extreme weather events. In particular, the power system's overhead wires and aging poles make the system highly exposed to monsoon events. We use customer collections to routinely improve and replace SCIP/PD's infrastructure. From 2018 to 2021, we improved and rehabilitated our Coolidge area infrastructure. From 2022 to 2025, SCIP/PD is targeting improvements or rehabilitation to our infrastructure near Hayden, Oracle, Casa Grande, Coolidge, and Florence.

SCIP/PD is required to maintain a reserve fund to be available for making repairs and replacements, defraying emergency expenses, and ensuring continuous operation of the power system. In 2021, SCIP/PD depleted its reserve fund to pay for increased purchase power costs. The intent of the 2023 rate increase is to replenish SCIP/PD's reserve fund.

Comment: One commenter states BIA did not provide any accompanying data to explain or justify the increase, nor did BIA provide sufficient time for comments.

Response: In addition to the information provided in the proposed rate notice in the **Federal Register** on February 10, 2022 (87 FR 7863), BIA held two virtual public meetings on March 3 and 16. The PowerPoint presentation from the meetings was immediately made available on SCIP/PD's website at *https://www.bia.gov/programs-services/power-utilities/scip-power.* In addition, BIA held stakeholder meetings with San Carlos Irrigation and Drainage District, Gila River Indian Community, and San Carlos Apache Tribe. During all these meetings, BIA provided ample time for participants to ask questions and request clarification. The 60-day comment period provided ample time to review the information underlying the proposed rate increases and for comments. In response to comments from the San Carlos Apache Tribe (Tribe), SCIP/PD provided the Tribe with information specific to customer electric use and costs on the San Carlos Apache Reservation; this occurred over the course of two meetings with the Tribe's representatives and written correspondence.

Comment: One commenter states SCIP/PD's billing process and system need to be improved and modernized. The commenter suggests more convenient ways to pay their bill, such as online or through budget billing.

Response: SCIP/PD recently upgraded its billing and payment options to improve customer experience and convenience. Customers can sign up for E-Billing using the Service Request on the BIA's web page: *https://www.bia.gov/programs-services/power-utilities/scip-power.* Bills can be paid online through *https://www.pay.gov/public/form/start/20893585* at no charge with a credit or debit card, Automated Clearing House (ACH) electronic check (bank account), Amazon Pay, or PayPal. Bills can be paid over the phone with a debit or credit card by calling toll free (800) 648–8659. Payments can also be deposited in a secure 24-hour drop box outside of SCIP/PD's lobby door, or payments can be made via US Mail.

Budget billing is a program offered by some power utilities and establishes a set amount paid by the customer each month to mitigate large utility bills in months of high electricity use. Although budget billing is not currently offered by SCIP/PD, BIA will continue improving our customer service, service delivery, and interfaces that are expected of a modern utility.

Comment: One commenter recommended use of residential solar panels for SCIP/PD customers.

Response: SCIP/PD allows customer-owned distributed generation from roof-top or ground-mount solar panels to interconnect to the SCIP/PD grid. Interconnect requests are evaluated on a case-by-case basis. SCIP/PD does not purchase excess generation from its customers.

Comment: The San Carlos Apache Tribe (Tribe) raised several objections related to our duties to the Tribe and its members in a April 11, 2022, comment letter.

Response: Some of the Tribe's comments have been addressed in the comments above. We also responded to the Tribe's comments regarding Reservation-specific rate impacts during government-to-government consultation and by letter to the Tribe's Chairman.

Does this notice affect me?

This notice affects you if we provide you electric service. SCIP/PD provides service to customers located within the San Carlos Indian Reservation, Gila River Indian Reservation, and to areas in Gila, Maricopa, Pima, and Pinal counties in Arizona. SCIP/PD provides power for residential, governmental, irrigation, commercial, and industrial uses, and approximately 83 percent of SCIP/PD's customers are non-Indians.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior (Secretary) by 5 U.S.C. 301; the Act of March 7, 1928 (45 Stat. 210–12), *as amended;* and 25 U.S.C. 385c. The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

What electric power rates are adjusted by this notice?

The rate table below contains the present and final 2023 electric power rates for SCIP/PD. An asterisk immediately following the rate category notes where the present rates are different from 2023 rates.

Rate category	Present rate ($)	Final 2023 rate ($)
Residential		
Minimum monthly charge per bill—includes up to 50 kilowatt-hours *	10.00	14.08.
Each kilowatt-hour between 50 and 500 *	0.12	0.1387.
All additional kilowatt-hours *	0.09	0.1387.
Purchased power cost adjustment per kilowatt-hour ^	0.031	0.00.
Small Commercial		
Minimum monthly charge per bill—includes up to 50 kilowatt-hours *	20.00	26.55.
Each kilowatt-hour between 50 and 950 *	0.13	0.1412.
Each kilowatt-hour between 950 and 9,000 *	0.08	0.1412.
Each kilowatt-hour over 9,000 *	0.06	0.1412.
Demand charge per kilowatt	2.00	2.00.
Purchased power cost adjustment per kilowatt-hour ^	0.031	0.00.
Large Commercial		
Minimum monthly charge per bill—includes up to 500 kilowatt-hours *	50.00	55.00.
Each kilowatt-hour between 500 and 10,000 *	0.095	0.101.
Each kilowatt-hour over 10,000 *	0.065	0.101.
Demand charge per kilowatt *	3.00	9.15.
Purchased power cost adjustment per kilowatt-hour ^	0.031	0.00.
Industrial		
Minimum monthly charge per bill	250.00	250.00.
Each kilowatt-hour *	0.05	0.0873.
Demand charge per kilowatt *	7.00	11.29.
Purchased power cost adjustment per kilowatt-hour ^	0.031	0.00.
Dusk-to-Dawn Lighting (see note #1)		
Monthly charge for 150 watt lights *	17.00 first light, $15.40 next 4 lights, $13.75 six or more lights.	17.00 per light.
Monthly charge for 250 watt lights *	20.85 first light, $19.00 next 4 lights, $16.35 six or more lights.	20.85 per light.
Monthly charge for 400 watt lights *	27.72 first light, $24.27 next 4 lights, $20.85 six or more lights.	No longer available.
Commercial Pumps		
Minimum monthly charge per bill *	25.00	29.69.
Each kilowatt-hour *	0.039	0.0815.
Demand charge per kilowatt *	2.40	4.25.
Purchased power cost adjustment per kilowatt-hour ^	0.031	0.00.
Irrigation Project Pumps (see note #2)		
Each kilowatt-hour *	0.035	0.05794.

* Notes rate categories adjusted.

Note #1. The Dusk-to-Dawn Lighting rate applies to existing and unmetered lights.

Note #2. The Irrigation Project Pumps rate has two components. The first rate component is SCIP/PD's direct cost of transmission, distribution, and administration; the final 2023 rate is $0.03183 per kilowatt-hour. The second rate component is SCIP/PD's direct cost of purchased power; this is $.02611 per kilowatt-hour. We are required to use our least expensive source of power available, which is currently our Parker-Davis Project power supply. The Parker-Davis Project power rate is established annually by Western Area Power Administration.

^ The present electric rates listed in the rate table in the **Federal Register** on February 10, 2022 (87 FR 7863) did not list the purchased power cost adjustment implemented in September 2021. To minimize confusion, the present rates in this notice's rate table have been revised to reflect the 2021 purchased power cost adjustment. Because changes to purchased power cost adjustments are unforeseen, not under our control, determined by current market rates, and subject to market fluctuations that can occur at an undetermined time and frequency, purchased power cost adjustments are not included in the procedure for adjusting electric power rates.

Consultation and Coordination With Tribal Governments (Executive Order 13175)

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 notice under the Department's consultation policy and under the criteria of Executive Order 13175 and have determined there to be substantial direct effects on federally recognized Tribes because SCIP/PD is located on or associated with Indian reservations. To fulfill its consultation responsibility to Tribes and Tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of electric power delivery, electric power availability, and costs of administration, operation, maintenance, and construction of our utilities that concern them. This is accomplished at the individual power utility by utility, agency, and regional representatives, as

appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust electric power rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

These rate adjustments are not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Civil Justice Reform (Executive Order 12988)

This notice complies with the requirements of Executive Order 12988. Specifically, in issuing this notice, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct as required by section 3 of Executive Order 12988.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on state, local, or Tribal governments in the aggregate, or on the private sector, of more than $130 million per year. They do not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Takings (Executive Order 12630)

These rate adjustments do not affect a taking of private property or otherwise have ''takings'' implications under Executive Order 12630. The rate adjustments do not deprive the public, State, or local governments of rights or property.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, these rate adjustments do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370(d), pursuant to 43 CFR 46.210(i). In addition, the rate adjustments do not present any of the 12 extraordinary circumstances listed at 43 CFR 46.215.

Paperwork Reduction Act of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0021 and expires December 31, 2022.

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on state, local, or Tribal governments in the aggregate, or on the private sector, of more than $130 million per year. They do not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–27473 Filed 12–16–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/A0A501010.999900]

Indian Gaming; Approval of Tribal-State Class III Gaming Compacts in the State of North Dakota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Amended Gaming Compact between the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation and the State of North Dakota, the Amended Gaming Compact between the Spirit Lake Tribe and the State of North Dakota, and the Amended Gaming Compact between the Turtle Mountain Band of Chippewa Indians of North Dakota and the State of North Dakota (Amendments), governing class III gaming for the (Tribes) in the State of North Dakota (State).

DATES: The Amendments take effect on December 19, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendments waive the State's Eleventh Amendment immunity if the parties negotiate a successor compact, thereby permitting enforcement of the good faith negotiation provisions in IGRA. If a successor compact is not successfully concluded, the existing compact will remain effective throughout IGRA's remedial process. The Amendments also add electronic poker games, sports book event wagering, any class III gaming authorized by State law, and mobile gaming within tribal lands. The Amendments are approved.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–27471 Filed 12–16–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB02000 L14400000.ET0000, 234; NV–73931]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting for the Historic Town of Rhyolite for Protection of Cultural and Recreational Resources, Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed withdrawal.

SUMMARY: The Secretary of the Interior proposes to extend for an additional 20-year term and subject to valid existing rights Public Land Order (PLO) No. 7566. The PLO withdrew 277.05 acres of public lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws, but not the mineral leasing laws, subject to valid existing rights for a period of 20 years, to protect cultural and recreational resources in the historic town of Rhyolite located in Nye, County Nevada. This notice advises the public of an opportunity to comment on the proposed 20-year withdrawal extension and to request a public meeting.

DATES: Comments and requests for a public meeting regarding the withdrawal extension application must be received on or before March 20, 2023.

ADDRESSES: Comments and meeting requests should be sent to the Bureau of Land Management (BLM) Nevada State Director, 1340 Financial Blvd., Reno, NV 89502.

FOR FURTHER INFORMATION CONTACT: Frederick Marcell, BLM Nevada State Office, at (202) 389–2978, email: *fmarcell@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The withdrawal established by PLO No. 7566 on May 20, 2003 (68 FR 27580) is incorporated herein by reference and will expire on May 19, 2023, unless the withdrawal is extended. At the request of the BLM, the Secretary is proposing to extend PLO No. 7566 for an additional 20-year term. The withdrawal extension will allow the BLM to continue to protect cultural and recreational resources on 277.05 acres, including the most prominent features of the 1906 train depot and the town's historic cemetery.

There are no suitable alternative sites available. There are no other Federal lands in the area containing or replicating these recreational and other values.

No water rights would be needed to fulfill the purpose of this withdrawal extension.

Comments, including name and street address of respondents, will be available for public review at the BLM Nevada State Office, 1340 Financial Blvd., Reno, during regular business hours 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you may ask the BLM in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal extension must submit a written request to the State Director, BLM Nevada State Office, at the address in the **ADDRESSES** section, within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the date, time, and place will be published in the **Federal Register**, local newspapers, and on the BLM website at *www.blm.gov* at least 30 days before the scheduled date of the meeting.

This withdrawal extension proposal will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

(Authority: 43 CFR 2310.4.)

Jon K. Raby,

State Director, Nevada.

[FR Doc. 2022–27412 Filed 12–16–22; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR83550000, 234R5065C6, RX.59389832.1009676]

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of contract actions.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; *mkelly@usbr.gov;* telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939, and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either

of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in the Reports

ARRA American Recovery and Reinvestment Act of 2009
BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CUP Central Utah Project
CVP Central Valley Project
CRSP Colorado River Storage Project
XM Extraordinary maintenance
EXM Emergency extraordinary maintenance
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and industrial
O&M Operation and maintenance
OM&R Operation, maintenance, and replacement
P–SMBP Pick-Sloan Missouri Basin Program
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of 1956
USACE U.S. Army Corps of Engineers
WD Water District
WIIN Act Water Infrastructure Improvements for the Nation Act

Missouri Basin—Interior Region 5: Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406–247–7752.

Discontinued contract action:

30. H&RW ID; Frenchman-Cambridge Division, P–SMBP; Nebraska: Consideration of a water service contract.

Completed contract actions:

28. Glen Elder ID; Glen Elder Unit, P–SMBP; Kansas: Consideration of a repayment contract for XM funded pursuant to Title X, Subtitle G of Public Law 111–11. Contract executed on September 9, 2022.

32. Bluff ID; Boysen Unit, P–SMBP; Wyoming: Consideration of a new long-term water service contract for irrigation purposes. Contract executed on July 5, 2022.

34. Shoshone Municipal Pipeline, Shoshone Project, Wyoming: Consideration for renewal of water service contract No. 1–07–60–W0703. Contract executed on August 17, 2022.

35. Slagle, Gayle and Joyce; Canyon Ferry Unit, P–SMBP; Montana: Consideration for a new long-term water service contract for irrigation purposes. Contract executed on August 1, 2022.

Upper Colorado Basin—Interior Region 7: Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

Modified contract action:

3. Middle Rio Grande Project, New Mexico: Reclamation will continue annual leasing of water from various San Juan-Chama Project contractors in 2022 to stabilize flows in a critical reach of the Rio Grande to meet the needs of irrigators and preserve habitat for the silvery minnow. Reclamation leased approximately 8,245 acre-feet of water from San Juan-Chama Project contractors in 2021. Contracts with the City of Santa Fe and the Town of Red River were executed. An additional 700 acre-feet lease is nearly complete with the City of Espanola.

Lower Colorado Basin—Interior Region 8: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

Completed contract action:

19. Cibola Valley Irrigation and Drainage District (CVIDD) and The Cibola Sportsman's Club, Inc., Alfred F. and Emma Jean Bishop Family Trust, and Bruce and Lora Cathcart and James and Aria Cathcart (Beneficiaries) BCP, Arizona: Enter into a proposed partial assignment and transfer of Arizona fourth-priority Colorado River water in the amount of 762 acre-feet per year from CVIDD to be divided amongst the Beneficiaries. Amend CVIDD's Colorado River water delivery contract No. 2–07–30–W0028 to decrease its Colorado River water entitlement from 8,204.52 to 7,442.52 acre-feet per year. Enter into Colorado River water delivery contracts for Arizona fourth-priority Colorado River water entitlements under contract No. 21–XX–30–W0717 with The Cibola Sportsman's Club, Inc. for 216 acre-feet per year, contract No. 21–XX–30–W0718 with Alfred F. and Erma Jean Bishop Family Trust for 420 acre-feet per year, and contract No. 21–XX–30–W0719 with Bruce and Lora Cathcart and James and Maria Cathcart for 126 acre-feet per year. Contract executed on September 12, 2022.

Columbia-Pacific Northwest—Interior Region 9: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

Discontinued contract action:

5. Nine water user entities of the Arrowrock Division, Boise Project, Idaho: Repayment agreements with districts with spaceholder contracts for repayment, per legislation, of the

reimbursable share of costs to rehabilitate Arrowrock Dam Outlet Gates under the O&M program.

Completed contract actions:

8. Benton ID, Yakima Project, Washington: Replacement contract to, among other things, withdraw Benton ID from the Sunnyside Division Board of Control; provide for direct payment of Benton ID's share of total operation, maintenance, repair, and replacement costs incurred by the United States in operation of storage division; and establish Benton ID responsibility for operation, maintenance, repair, and replacement for irrigation distribution system. Contract executed on April 7, 2021.

14. Quincy-Columbia Basin ID, Columbia Basin Project, Washington: Long-term contract to renew master water service contract No. 14–06–100–9166, as supplemented, to authorize the District to deliver project water to up to 10,000 First Phase Continuation Acres located within the District, and to deliver additional project water to land irrigated under the District's repayment contract during the peak period of irrigation water use annually. Contract executed on October 7, 2021.

California-Great Basin—Interior Region 10: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New contract actions:

49. San Luis Canal Company, Central California ID, Firebaugh Canal Water District, Columbia Canal Company (collectively San Joaquin River Exchange Contractors), CVP, California: Amend 1968 Second Amended Contract for Exchange of Waters.

Modified contract actions:

9. Tuolumne Utilities District (formerly Tuolumne Regional WD), CVP, California: Long-term water service contract for up to 6,000 acre-feet from New Melones Reservoir, and possibly a long-term contract for storage of non-project water in New Melones Reservoir.

11. San Luis WD, CVP, California: Proposed partial assignment of 4,449 acre-feet of the District's CVP supply to Santa Nella County WD for M&I use.

Discontinued contract action:

4. Redwood Valley County WD, SRPA, California: Restructuring the repayment schedule pursuant to Public Law 100–516.

Christopher Beardsley,

Director, Policy and Programs.

[FR Doc. 2022–27431 Filed 12–16–22; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–540–541 (Fifth Review)]

Certain Welded Stainless Steel Pipe From South Korea and Taiwan

Determinations

On the basis of the record[1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on certain welded stainless steel pipe from South Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on May 2, 2022 (87 FR 25668) and determined on August 5, 2022, that it would conduct expedited reviews (87 FR 64112, October 21, 2022).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on December 14, 2022. The views of the Commission are contained in USITC Publication 5395 (December 2022), entitled *Welded Stainless Steel Pipe from South Korea and Taiwan: Investigation Nos. 731–TA–540–541 (Fifth Review).*

By order of the Commission.

Issued: December 14, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–27452 Filed 12–16–22; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–564 and 731–TA–1338–1340 (Review)]

Steel Concrete Reinforcing Bar (Rebar) From Japan, Taiwan and Turkey; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the countervailing duty order on steel concrete reinforcing bar (rebar) from Turkey and the antidumping duty orders on steel concrete reinforcing bar from Japan, Taiwan and Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: September 6, 2022.

FOR FURTHER INFORMATION CONTACT: Stamen Borisson (202–205–3125), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On September 6, 2022, the Commission determined that the domestic interested party group response to its notice of institution (87 FR 33206, June 1, 2022) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on December 16,

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

2022. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before December 23, 2022 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to these reviews by December 23, 2022. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: December 13, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–27374 Filed 12–16–22; 8:45 am]

BILLING CODE 7020–02–P

[2] The Commission has found the response filed on behalf of the Rebar Trade Action Coalition and its individual members, Nucor Corporation, Gerdau Ameristeel US Inc., Commercial Metals Company, Byer Steel, and Steel Dynamics, Inc., domestic producers of rebar, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Bankruptcy Rules; Hearing of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Bankruptcy Rules; Notice of cancellation of open hearing.

SUMMARY: The following public hearing on proposed amendments to the Federal Rules of Bankruptcy Procedure has been canceled: Bankruptcy Rules Hearing on January 13, 2023. The announcement for this hearing was previously published in the **Federal Register** on August 5, 2022.

DATES: January 13, 2023.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073)

Dated: December 14, 2022.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2022–27434 Filed 12–16–22; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 21–35]

Allan Alexander Rashford, M.D.; Decision and Order

On September 23, 2021, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Allan Alexander Rashford, M.D. (Respondent) of Charleston, South Carolina.[1] OSC/ISO, at 1.

A hearing was held before DEA Administrative Law Judge Paul E. Soeffing (the ALJ) who, on April 5, 2022, issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD).[2] Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, credibility findings, findings of fact, conclusions of law, sanctions analysis, and recommended sanction in the RD and summarizes and expands upon portions thereof herein.

I. Findings of Fact

Pursuant to 21 U.S.C. 823(f), 824(a)(4), the Government seeks revocation of Respondent's DEA registration because Respondent allegedly committed acts rendering his continued registration inconsistent with the public interest, including: (1) improperly prescribing controlled substances; (2) failing to maintain medical records; and (3) engaging in unlawful electronic prescribing practices. OSC/ISO, at 1.

Respondent issued the controlled substance prescriptions at issue in this case to Patients W.G., P.L., T.E., D.P., N.R., and L.C. without maintaining any medical records. RD, at 28.[3] According to the credible, unrebutted, expert testimony of Dr. Gene Kennedy, Respondent issued all of these controlled substance prescriptions outside the usual course of professional practice and beneath the applicable standard of care due to Respondent's lack of medical records. *Id.* at 28 (citing Tr. 118–31, 344). The record showed that Respondent could not produce any records for these six patients. RD, at 28 (citing Tr. 249–50; 323). In addition, Dr. Kennedy credibly testified that the controlled substance prescriptions for L.P. and P.B. were issued outside the usual course of professional practice and beneath the applicable standard of care because Respondent's partial medical records did not adequately support his prescribing. RD, at 29–31. Finally, the record established that Respondent permitted his wife and son

[1] Respondent holds a DEA Certificate of Registration no. AR1001306 at the registered address of 903 Saint Andrews Blvd. Suite B, Charleston, SC 29407–7194. OSC/ISO, at 1–2.

[2] Neither party filed exceptions.

[3] The parties entered into 46 stipulations, all of which are incorporated into this Decision. RD, at 2–10. On January 29, 2020, Respondent entered into a memorandum of agreement (MOA) with DEA, which remains in effect for three years, and which prohibited Respondent from prescribing Schedule II controlled substances, required Respondent to maintain proper medical files on all patients to whom Respondent issued controlled substance prescriptions, and required Respondent to maintain medical records in a readily retrievable manner. The Agency agrees with the ALJ's consideration of the violations of the MOA in the Sanctions section. *See* RD, at n.12.

to access and use his eToken, password, and PIN to electronically submit prescriptions.[4] *Id.* at 33.

II. Discussion

The Government has the burden of proving that the requirements for revocation of a DEA registration in 21 U.S.C. 824(a) are satisfied. 21 CFR 1301.44(e). Having reviewed the record and the ALJ's RD, the Agency agrees with the RD that the Government has proven by substantial evidence that Respondent committed acts which render his continued registration inconsistent with the public interest.

The Agency agrees with the RD that the record established multiple instances where Respondent failed to comply with applicable federal and state law and dispensed controlled substances in a manner inconsistent with the public interest. The Agency finds that, based on the credible, unrebutted testimony of the Government's expert, Dr. Kennedy, the Government established that Respondent issued all of the prescriptions at issue in this case outside the usual course of professional practice and beneath the standard of care in violation of 21 CFR 1306.04(a) and in violation of several South Carolina laws.[5] *See* RD, at 27–30.

Furthermore, the Agency agrees with the RD that the record established that Respondent improperly issued electronic controlled substance prescriptions by entrusting his secure credentials to his wife and son and allowing them to access and provide his PIN in the issuance of those prescriptions. *Id.* at 32. In so doing, Respondent violated 21 CFR 1311.125(c), 21 CFR 1311.135(a), and 21 CFR 1311.102(a). *See id.* at 32–34.

In sum, the Agency agrees with the RD that these factors militate strongly in favor of the Government's position that Respondent's continued registration is inconsistent with the public interest and, thus, that the Government established a *prima facie* case for revocation. RD, at 34.

III. Sanction

Where, as here, the Government has established grounds to revoke Respondent's registration, the burden shifts to the respondent to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18,882, 18,910 (2018). When a registrant has committed acts inconsistent with the public interest, he must both accept responsibility and demonstrate that he has undertaken corrective measures. *Holiday CVS LLC dba CVS Pharmacy Nos 219 and 5195,* 77 FR 62,316, 62,339 (2012).

Here, the Agency adopts the rationale of the RD that, although Respondent freely admitted that he failed to keep records that were readily retrievable, he did not unequivocally accept responsibility for his misconduct; instead, he downplayed his misconduct and placed blamed on the actions of others. RD, at 34–38 (citing Tr. 246–57, 316–19, 323–24). In addition, the record demonstrates that Respondent's violations of the law were not isolated occurrences, but took place over more than a year, involved multiple patients, and even occurred *after* the DEA had specifically notified Respondent of the violations and attempted to bring Respondent into compliance with an MOA, which Respondent then violated.

Having reviewed the record in its entirety, the Agency finds that Respondent cannot be entrusted with a DEA registration and orders that his registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in the Administrator by 21 U.S.C. 824(a)(4) and 21 U.S.C. 823(f), I hereby revoke DEA Certificate of Registration No. AR1001306 issued to Allan Alexander Rashford, M.D. Further, pursuant to 28 CFR 0.100(b), 21 U.S.C. 824(a), and 21 U.S.C. 823(f), I hereby deny any pending application of Allan Alexander Rashford, M.D., to renew or modify this registration, as well as any other pending application of Allan Alexander Rashford, M.D., for registration in South Carolina. This Order is effective January 18, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 12, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–27479 Filed 12–16–22; 8:45 am]

BILLING CODE 4410–09–P

[4] Respondent testified regarding why he could not maintain and produce medical records and the purpose of his treatment of the patients at issue and their circumstances (including that he attempted to move patients away from controlled substance prescriptions for pain and stopped prescribing Schedule II controlled substances after DEA told him to stop in December 2019), but he does not dispute that he could not produce medical records documenting his prescribing. RD, at 27, 29, 30; Tr. 79–82; 240–331. Respondent did not dispute that he had entrusted his electronic credentials to his son and wife. *Id.* (citing Tr. 333–37).

[5] *See* S.C. Code Ann. Regs. 61–4.1002(a), 61–4.1103, 61–4.1204; S.C. Code Ann. 40–47–113(A), 44–53–360(h), 44–115–120; *see* RD, at 27–28.

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Pre-Implementation Planning Checklist for State Unemployment Insurance Information Technology Modernization Projects

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Pre-Implementation Planning Checklist for State Unemployment Insurance Information Technology Modernization Projects.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by February 17, 2023.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Jagruti Patel by telephone at (202) 693–3059 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *patel.jagruti@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, Room S–4524, 200 Constitution Avenue NW, Washington, DC 20210; by email: *patel.jagruti@dol.gov;* or by Fax at (202) 693–3975.

FOR FURTHER INFORMATION CONTACT: Contact Jagruti Patel by telephone at (202) 693–3059 (this is not a toll-free number) or by email at *patel.jagruti@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Building on lessons learned from previous state implementations of modernized Unemployment Insurance (UI) Information Technology (IT) systems, ETA facilitated the development of a UI IT Modernization Pre-Implementation Planning Checklist for states to use prior to lunching a new system. The checklist helps states validate that all necessary system functions will be available and/or that alternative workarounds have been developed prior to the production launch of a new UI IT system. The goal of the checklist is to help states avoid major disruption of services to UI customers and to prevent delays in making UI benefit payments when due. This comprehensive checklist denotes critical functional areas that states must certify prior to launching new UI IT systems including, but not limited to, technical IT functions and UI business processes that interface with the new system. The list of critical areas identified in the checklist includes:

- Functionality and Workarounds;
- External Alternate Access Options and Usability Issues Addressed;
- Policies and Procedures;
- Technical Preparation for System Implementation;
- Call Center/Customer Service Operations;
- Business Process;
- Help Desk;
- Management Oversight;
- Vendor Support/Communications;
- Communication Processes and Procedures; and
- Labor Market Information Federal Reporting Functions.

This information includes the UI IT Modernization project title (*e.g.,* State project or Consortium name) and the associated report on Pre-Implementation Planning Checklist results. For each sub-element identified in the ETA 9177 report, the SWA is to provide:

- An overall status report;
- A brief report explaining the status of the project as it relates to the particular sub-element;
- Attached explanations of any workarounds concerning the processes in the sub-element;
- Attached explanations if implementation of the new system concerning specific processes for the sub-element will be delayed or deferred;
- Attached explanations for added clarity and/or to support a narrative;
- Mitigation proposals for addressing any problems;
- New project timelines if applicable; and/or
- Any discussion of identified technical assistance needs for the successful completion of the project.

ETA requires the use of this checklist report to help SWAs ensure the availability of mission critical functions as the state prepares for the launch of a new system and following the launch of a new system. In addition, the collection will enable ETA to identify and provide appropriate technical assistance on issues in the checklist and ensure SWAs have plans for addressing critical issues prior to launching a new UI IT system. Section 303(a)(6) of the Social Security Act, codified at 42 U.S.C. 503(a)(6), authorizes this information collection. This is a proposed extension with revision. The only revision concerns a reduction in the total annual burden hours, which has been reduced from 576 hours to 540 hours, because the review of the guidance issuance is not needed.

DOL is currently conducting a UI Modernization project in accordance with Section 9032 of the American Rescue Plan Act (ARPA) to detect and prevent fraud, promote equitable access, and ensure the timely payment of benefits with respect to unemployment compensation programs. In the coming months we expect to make improvements to the UI IT Modernization Pre-Implementation Planning Checklist based on the ARPA UI Modernization work. This proposed extension does not yet reflect that work.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0527.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including 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).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Pre-Implementation Planning Checklist for State Unemployment Insurance Information Technology Modernization Projects.

Form: ETA 9177.

OMB Control Number: 1205–0527.

Affected Public: State, Local, and Tribal Governments.

Estimated Number of Respondents: 6.

Frequency: Once per incident.

Total Estimated Annual Responses: 3.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 540 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–27406 Filed 12–16–22; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Occupational Requirements Survey.'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before February 17, 2023.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, 2 Massachusetts Avenue NE, Room G225, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Requirements Survey (ORS) is a nationwide survey that the Bureau of Labor Statistics (BLS) is conducting at the request of the Social Security Administration (SSA). Three years of data collection and capture for the ORS will start in 2023 and end in mid-2026. Estimates produced from the data collected by the ORS will be considered by the SSA to update occupational requirements data used in administering the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs.

The ORS occupational information will allow SSA adjudicators to associate the assessment of a claimant's physical and mental functional capacity and vocational profile with work requirements. BLS will compute percentages of workers with various characteristics, such as skill and strength level. SSA will use this information to provide statistical support for the medical-vocational rules used during the assessment process regarding the number of jobs that exist at each occupational requirement level in the national economy.

The Social Security Administration, Members of Congress, and representatives of the disability community have all identified collection of updated information on the requirements of work in today's economy as crucial to the equitable and efficient operation of the Social Security Disability (SSDI) program.

The ORS collects data from a sample of employers. Collected work data consist of occupational task lists, defined as the critical job function and key job tasks, to validate the reported requirements of work.

II. Current Action

Office of Management and Budget clearance is being sought for the Occupational Requirements Survey.

The ORS collects data on the requirements of work, as defined by the SSA's disability program:

(1) Education, Training and Experience, measures include an indicator of ''time to proficiency,'' defined as the amount of time required by a typical worker to learn the techniques, acquire the information, and develop the facility needed for average job performance. This indicator is comparable to the Specific Vocational Preparation (SVP) used in the Dictionary of Occupational Titles (DOT).

(2) Physical Demands, characteristics/factors of occupations, measured in such a way to support SSA disability determination needs. These measures are comparable to measures in Appendix C of the Selected Characteristics of Occupations (SCO).

(3) Environmental Conditions, measured in such a way to support SSA disability determination needs, comparable to measures in Appendix D of the SCO.

(4) Mental and Cognitive Demands, measures include work setting, review, pace, in addition to personal contacts.

The ORS also collects the following supporting data to validate reported requirements:

• Occupational task lists, defined as the critical job function and key job tasks, to validate the reported requirements of work. These task lists are comparable to data identified in the Employment and Training Administration's (ETA) Occupational Information Network (O*NET) Program.

BLS is seeking approval to increase the ORS sample size to mitigate the impact of non-response on survey estimates and ensure sufficient data are collected, to support the final ORS estimates. Changes in survey questions and materials to increase survey efficiency and improve estimates are also included in this request.

BLS will disseminate the data from the ORS on the BLS public website (*www.bls.gov/ors*). The design uses a five-year rotation with complete estimates published after the full sample has been collected in July 2028 with final estimates published no later than the second quarter of FY 2029. Interim results will be produced and disseminated on an annual basis.

ORS collection uses several forms for private industry and government collection. Only one form version is used per interview based on what best meets an individual field economist's note taking needs for a given interview.

ORS data are defined to balance SSA's adjudication needs with the ability of the respondent to provide data. With this clearance, BLS is continuing collection of existing data.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: Occupational Requirements Survey.

OMB Number: 1220–0189.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit; not-for-profit institutions; and State, local, and tribal government.

	Respondents	Average responses per year	Total number of responses	Average minutes	Total hours
Total Average	12,449	1.00	12,449	65.735	13,639

COLLECTION FORMS

	List form Nos.	Name form
Occupational Requirements Survey (Private Industry sample).	ORS Form 15–1P, ORS Form 4PPD–4P, ORS Form 4 PPD–4PF, ORS Form 4 PPD–4PAF.	Establishment and Collection Forms for Private Industry.
Occupational Requirements Survey (State and local government sample).	ORS Form 15–1G, ORS Form 4PPD–4G, ORS Form 4 PPD–4GF, ORS Form 4 PPD–4GAF.	Establishment and Collection Forms for Governments.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on December 13, 2022.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2022–27407 Filed 12–16–22; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by January 18, 2023. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or *ACApermits@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, at the above address, 703–292–4479.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

1. *Applicant* Permit Application: 2023–025
Daniel Villa, Sea Shepherd Global, 1217 S 9th St, Tacoma, WA 98405, *operations@seashepherdglobal.org*

Activity for Which Permit Is Requested

Waste Management. The applicant seeks an Antarctic Conservation Permit for waste management activities associated with use of remotely piloted aircrafts (RPAs) in Antarctica. Aircrafts will be used for documenting krill fishery activities only. RPAs will not be flown over any concentrations of wildlife, Antarctic Specially Protected or Managed Areas or Historic Sites and Monuments without appropriate authorization. Aircraft are only to be flown by experienced, pre-approved pilots in fair weather conditions and in the presence of an observer, who will always maintain visual line of sight with the aircraft during operation. Measures are in place to prevent loss of the aircraft.

Location

Antarctic Peninsula Region.

Dates of Permitted Activities

January 15, 2023–February 29, 2023.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2022–27375 Filed 12–16–22; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Artificial Intelligence Research Resource Task Force; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

NAME AND COMMITTEE CODE: National Artificial Intelligence Research Resource Task Force (84629).

DATE AND TIME: January 13, 2023; 1:00 p.m. to 2:00 p.m. EDT.

PLACE: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314/Virtual Virtual meeting attendance only; to attend the virtual meeting, please send your request for the virtual meeting link to the following email: *cmessam@nsf.gov.*

TYPE OF MEETING: Open.

CONTACT PERSON: Brenda Williams, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA

22314; Telephone: 703–292–8900; email: *bwilliam@nsf.gov.*

PURPOSE OF MEETING: The Task Force shall investigate the feasibility and advisability of establishing and sustaining a National Artificial Intelligence Research Resource; and propose a roadmap detailing how such resource should be established and sustained.

AGENDA: In this meeting, the Task Force will vote on the implementation plan and roadmap for the NAIRR and discuss the next steps after submission of the report to the President and Congress.

Dated: December 13, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–27401 Filed 12–16–22; 8:45 am]

BILLING CODE 7555–01–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 Notice to Proceed Without One Week Notice
III. Sunshine Act Approval of Executive (Closed) Session
IV. Executive Session Special Topic
V. Executive Session Report from CEO
VI. Executive Session: Report from CFO
VII. Executive Session: General Counsel Report
VIII. NeighborWorks Compass Update
IX. Action Item Approval of Minutes
X. Discussion Item November 18, 2022 Audit Committee Report
XI. Discussion Item Future of NeighborWorks Training
XII. Discussion Item Report from CIO
XIII. Discussion Item DC Office Relocation Update
XIV. Management Program Background and Updates
XV. 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. 2022–27551 Filed 12–15–22; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of December 19, 26, 2022, January 2, 9, 16, 23, 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 19, 2022

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.

Week of January 16, 2023—Tentative

There are no meetings scheduled for the week of January 16, 2023.

Week of January 23, 2023

Tuesday, January 24, 2023

9:00 a.m. Overview of Accident Tolerant Fuel Activities (Public Meeting) (Contact: Samantha Lav: 301–415–3487)

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, January 26, 2023

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Nuclear Materials Users Business Lines (Public Meeting) (Contacts: Annie Ramirez: 301–415–6780; Candace Spore: 301–415–8537)

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/.*

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: December 14, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2022–27492 Filed 12–15–22; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287; NRC–2021–0146]

Notice of Intent To Conduct a Supplemental Scoping Process and Prepare a Draft Environmental Impact Statement; Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Subsequent license renewal environmental report supplement; intent to conduct a supplemental scoping process and prepare a draft environmental impact statement; request for comment.

SUMMARY: In response to the U.S. Nuclear Regulatory Commission's (NRC) Memorandum and Order, CLI–22–03 (February 24, 2022), the NRC received Subsequent License Renewal—Appendix E Environmental Report Supplement 2 (ER Supplement), dated November 7, 2022, related to the subsequent renewal of Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, which authorizes Duke Energy Carolinas, LLC (Duke Energy, the applicant) to operate Oconee Nuclear Station (Oconee), Units 1, 2, and 3. The ER Supplement addresses certain environmental impacts of operating Oconee for an additional period of 20 years beyond the current license expiration dates. The NRC will conduct a limited scoping process to gather additional information necessary to prepare an environmental impact statement (EIS) to evaluate the environmental impacts for the subsequent license renewal (SLR) of the operating licenses for Oconee. The NRC is seeking public comment on the proper scope of the EIS to be prepared for this action.

DATES: Submit comments on the scope of the EIS by January 18, 2023. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0146. Address questions about Docket IDs to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email:* Comments may be submitted to the NRC electronically using the email address *OconeeEnvironmental@nrc.gov.*
- *Mail Comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lance Rakovan, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2589, email: *Lance.Rakovan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0146 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0146.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.
- *Public Library:* A copy of the ER Supplement is available for public review at the Oconee County Public Library, 300 E South 2nd St., Seneca, SC 29678.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0146 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

By letter dated June 7, 2021, Duke Energy submitted to the NRC an application for subsequent license renewal of Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55 for Oconee, Units 1, 2, and 3, respectively, for an additional 20 years of operation. That submission initiated the NRC's proposed action of determining whether to grant the SLR application. The Oconee units are pressurized water reactors designed by Babcock & Wilcox and are located in Seneca, South Carolina, approximately 30 miles west of Greenville, SC. The current renewed facility operating license for Unit 1 expires at midnight on February 6, 2033, the current renewed facility operating license for Unit 2 expires at midnight on October 6, 2033, and the current renewed facility operating license for Unit 3 expires at midnight on July 19, 2034. The SLR application was submitted pursuant to section 103 of the Atomic Energy Act of 1954, as amended, and part 54 of title 10 of the *Code of Federal Regulations*

(10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' and seeks to extend the renewed facility operating license for Unit 1 to midnight on February 6, 2053, the renewed facility operating license for Unit 2 to midnight on October 6, 2053, and the renewed facility operating license for Unit 3 to midnight on July 19, 2054. A notice of receipt and availability of the application was published in the **Federal Register** on June 25, 2021 (86 FR 33784). A notice of acceptance for docketing of the application and of opportunity to request a hearing was published in the **Federal Register** on July 28, 2021 (86 FR 40662). A public scoping meeting was held on August 21, 2021.

On February 24, 2022, the Commission issued several decisions, including CLI–22–02 and CLI–22–03, in which the Commission held that ''the 2013 GEIS [NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants''] did not consider the impacts from operations during the subsequent license renewal period and applicants for subsequent license renewal must evaluate Category 1 impacts in their environmental reports. Accordingly, these impacts must be addressed on a site-specific basis in the Staff's site-specific environmental impact statements.'' In addition, the Commission held that 10 CFR 51.53(c)(3) only applies to an initial license renewal applicant's preparation of an environmental report. As a result, the Commission determined, among other things, that the NRC staff's environmental reviews of pending subsequent license renewal applications are incomplete and directed the staff to prepare an update to the 2013 GEIS. In CLI–22–03, the Commission further stated that if an applicant does not wish to wait for the completion of the generic analysis and associated rulemaking, ''the applicant may submit a revised environmental report providing information on environmental impacts during the subsequent license renewal period.''

Following the issuance of CLI–22–03, the NRC received the ER Supplement from Duke Energy, dated November 7, 2022, related to the subsequent renewal of the operating licenses for Oconee.

Given recent circumstances that require including, within the scope of the EIS for subsequent license renewal for Oconee, an evaluation of the issues treated as Category 1 in the 2013 GEIS, the NRC staff will conduct an additional limited scoping process associated with this action. Consistent with Commission direction, the NRC staff intends to prepare a Draft Supplemental Environmental Impact Statement for SLR of Oconee Units 1, 2 and 3 (DSEIS) for public comment, in which it will review all applicable ''Category 1'' (generic) issues listed in the 2013 GEIS for the purpose of making site-specific findings (*e.g.,* SMALL, MODERATE, LARGE) on those issues. The NRC staff also intends to review all applicable ''Category 2'' (site-specific) issues listed in the 2013 GEIS, including any significant new information that may have arisen following the original August 10, 2021, to September 9, 2021, scoping period and will update the site-specific analysis, as appropriate, to address the new information. Environmental scoping comments should address matters that fit within these two categories; comments that do not fit into these two categories will not be considered.

III. Request for Comment

This notice informs the public of the NRC's intention to prepare a DSEIS related to the subsequent license renewal application and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the DSEIS will be used to accomplish the following:

a. Define the proposed action, which is to be the subject of the DSEIS;

b. Determine the scope of the DSEIS and identify the significant issues to be analyzed in depth;

c. Identify and eliminate from detailed study those issues that are peripheral or are not significant; or were covered by a prior environmental review;

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to, but are not part of, the scope of the DSEIS being considered;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decisionmaking schedule;

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the DSEIS to the NRC and any cooperating agencies; and

h. Describe how the DSEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, Duke Energy;

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards;

d. Any affected Indian Tribe;

e. Any person who requests or has requested an opportunity to participate in the scoping process; and

f. Any person who has petitioned or intends to petition for leave to intervene.

Participation in the scoping process for the Oconee subsequent license renewal DSEIS does not entitle participants to become parties to the proceeding to which the DSEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed.

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.
Subsequent License Renewal—Appendix E Environmental Report Supplement 2, dated November 7, 2022.	ML22311A036.
Oconee Nuclear Station, Units 1, 2, and 3, Application for Subsequent Renewed Operating License, dated June 7, 2021.	ML21158A193 (package).
Commission Memorandum and Order CLI–22–02, dated February 24, 2022	ML22055A496.
Commission Memorandum and Order CLI–22–03, dated February 24, 2022	ML22055A554.

Document description	ADAMS accession No.
NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' Rev. 1 (June 2013), Vols. 1–3.	ML13106A241, ML13106A242, and ML13106A244.
NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' Supplement 2, Regarding Oconee Nuclear Station, Units 1, 2 & 3, dated December 1999.	ML003670518.

Dated: December 14, 2022.

For the Nuclear Regulatory Commission.

John M. Moses,

Deputy Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Materials, Safety and Safeguards.

[FR Doc. 2022–27447 Filed 12–16–22; 8:45 am]

BILLING CODE 7590–01–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, January 19, 2023. There will be no in-person gathering for this meeting.

DATES: The virtual meeting will be held on January 19, 2023, 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 January 19, 2023, 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 ''January 19 FPRAC Meeting'' no later than Tuesday, January 17, 2023.

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 January 19, 2023.

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. 2022–27368 Filed 12–16–22; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020–184; MC2023–86 and CP2023–87; MC2023–87 and CP2023–88; MC2023–88 and CP2023–89; MC2023–89 and CP2023–90]

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 21, 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).:* CP2020–184; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 Negotiated Service Agreement; *Filing Acceptance Date:* December 13, 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 21, 2022.

2. *Docket No(s).:* MC2023–86 and CP2023–87; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 8 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 13, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 21, 2022.

3. *Docket No(s).:* MC2023–87 and CP2023–88; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 12 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 13, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 21, 2022.

4. *Docket No(s).:* MC2023–88 and CP2023–89; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 13 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 13, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 21, 2022.

5. *Docket No(s).:* MC2023–89 and CP2023–90; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 14 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 13, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 21, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–27472 Filed 12–16–22; 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. CP2020–177; CP2020–186; CP2020–190; CP2020–198; CP2020–200; CP2020–201; MC2023–78 and CP2023–79; MC2023–79 and CP2023–80; MC2023–80 and CP2023–81; MC2023–81 and CP2023–82; MC2023–82 and CP2023–83; MC2023–83 and CP2023–84; MC2023–84 and CP2023–85; MC2023–85 and CP2023–86]

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 20, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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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).:* CP2020–177; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 1 Negotiated Service Agreement; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 20, 2022.

2. *Docket No(s).:* CP2020–186; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 4 Negotiated Service Agreement; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 20, 2022.

3. *Docket No(s).:* CP2020–190; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 6 Negotiated Service Agreement; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* December 20, 2022.

4. *Docket No(s).:* CP2020–198; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 5 Negotiated Service Agreement; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 20, 2022.

5. *Docket No(s).:* CP2020–200; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 3 Negotiated Service Agreement; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 20, 2022.

6. *Docket No(s).:* CP2020–201; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 4 Negotiated Service Agreement; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 20, 2022.

7. *Docket No(s).:* MC2023–78 and CP2023–79; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 7 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 12, 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 20, 2022.

8. *Docket No(s).:* MC2023–79 and CP2023–80; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 97 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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 20, 2022.

9. *Docket No(s).:* MC2023–80 and CP2023–81; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 98 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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 20, 2022.

10. *Docket No(s).:* MC2023–81 and CP2023–82; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 99 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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 20, 2022.

11. *Docket No(s).:* MC2023–82 and CP2023–83; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 100 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 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 20, 2022.

12. *Docket No(s).:* MC2023–83 and CP2023–84; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 101 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* December 20, 2022.

13. *Docket No(s).:* MC2023–84 and CP2023–85; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 102 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing*

[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).

Acceptance Date: December 12, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* December 20, 2022.

14. *Docket No(s).:* MC2023–85 and CP2023–86; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 103 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 12, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* December 20, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–27394 Filed 12–16–22; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 4:00 p.m. on Monday, December 19, 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 15, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–27641 Filed 12–15–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96490; File No. SR–MIAX–2022–46]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange, LLC To Delay Implementation of an Amendment to Rule 518, Complex Orders, To Permit Legging Through the Simple Market

December 13, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 8, 2022, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to delay implementation of the change to allow a component of a complex order[3] that legs into the Simple Order Book[4] to execute at a price that is outside the NBBO.[5]

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 22, 2019, the Exchange filed a proposed rule change to amend subsection (c)(2)(iii) of Exchange Rule 518, Complex Orders, to remove the provision which provides that a component of a complex order that legs into the Simple Order Book may not execute at a price that is outside the NBBO.[6] The proposed rule change indicated that the Exchange would announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 90 days following the operative date of the proposed rule. The implementation date will be no later than 90 days following the issuance of the Regulatory Circular.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''complex order'' is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the ''legs'' or ''components'' of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. Mini-options may only be part of a complex order that includes other mini-options. Only those complex orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing. *See* Exchange Rule 518(a)(5).

[4] The ''Simple Order Book'' is the Exchange's regular electronic book of orders and quotes. *See* Exchange Rule 518(a)(15).

[5] The term ''NBBO'' means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from the appropriate Securities Information Processor (''SIP''). *See* Exchange Rule 518(a)(14).

[6] *See* Securities Exchange Release No. 87440 (November 1, 2019), 84 FR 60117 (November 7, 2019) (SR–MIAX–2019–45).

The Exchange delayed the implementation of this functionality until the fourth quarter of 2022.[7] The Exchange now proposes to delay the implementation of this functionality until the third quarter of 2023.

The Exchange proposes this delay in order to allow the Exchange to complete its reprioritization of its software delivery and release schedule as a result of a shift in priorities at the Exchange. The Exchange will issue a Regulatory Circular notifying market participants at least 45 days prior to implementing this functionality.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with section 6(b) of the Act[8] in general, and furthers the objectives of section 6(b)(5) of the Act[9] in particular, in that 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest by allowing the Exchange additional time to plan and implement the proposed functionality.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the implementation of the proposed functionality does not impose an undue burden on competition. Delaying the implementation will simply allow the Exchange additional time to properly plan and implement the proposed functionality.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition as the delay will apply equally to all Members of the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition as the proposal is to delay the implementation of approved functionality which affects MIAX Members only and does not impact intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2022–46.

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–MIAX–2022–46. 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–MIAX–2022–46, and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27384 Filed 12–16–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96486; File No. SR–BX–2022–025]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Address an Erroneous Reference in Equity 4, Rule 4780(e)

December 13, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

[7] *See* Securities Exchange Release No. 94939 (May 18, 2022), 87 FR 31590 (May 24, 2022) (SR–MIAX–2022–21).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). 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.

[12] 17 CFR 200.30–3(a)(12).

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2022, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to address an erroneous reference in Equity 4, Rule 4780(e).

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to correct an erroneous reference in Equity 4, Rule 4780(e) involving the dissemination process of the Retail Liquidity Identifier as part of the Exchange's Retail Price Improvement Program (''RPI Program''). Under the RPI Program, all Retail Price Improvement Orders (''RPI Orders'') provide liquidity at a price at least $0.001 better than the National Best Bid and Offer (''NBBO'') through a special execution process.[3] Currently, unless a Participant opts out of identifying their RPI Interest, the Exchange disseminates the Retail Liquidity Identifier when RPI interest is present on the Exchange.

Equity 4, Rule 4780(e) states that the Retail Liquidity Identifier will be disseminated when RPI interest is priced at least $0.001 per share better than the ''Exchange's'' Protected Bid or Protected Offer. However, this language is erroneous. In intent and practice, the Exchange disseminates the Retail Liquidity when RPI interest is priced at least $0.001 better than the NBBO. The Exchange's intent in this regard is evident in Equity 4, Rule 4702(b)(5)(A), which describes an RPI Order as being priced better than the NBBO. Moreover, measuring retail price improvement with reference to the NBBO, rather than to the Exchange's Best Bid or Offer, ensures that the RPI Program will alert participants to real price improvement opportunities that exist on Nasdaq [sic], *i.e.,* prices that are better than the NBBO, rather than prices better than the Exchange's Best Bid or Offer, but not better than the NBBO.

The Exchange proposes to correct this erroneous reference in Equity 4, Rule 4780(e). The correction is necessary to ensure that the provision is consistent with the circumstances in which the Exchange intends to and actually disseminates the Retail Liquidity Identifier. It will also ensure that the Retail Liquidity Identifier will alert participants to genuine retail price improvement opportunities on the Nasdaq Book [sic], as discussed above.

The Exchange noticed the error in the language and promptly sought to correct the inconsistency. The Exchange notes that it has not received any complaints or notices from Exchange Members expressing confusion or alerting the Exchange to the error.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[4] in general, and furthers the objectives of section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, 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. The proposal would correct an error that otherwise renders inaccurate an example of the application of Equity 4, Rule 4780(e). The Exchange believes that it is consistent with the interest of the public, investors, and the market for the Exchange to take steps to ensure that its Rulebook is accurate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is non-substantive and it will have no impact on competition because it simply corrects an error in the Rule text to render the text more accurate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] 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 for 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[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Equity 4, Rule 4702(b)(5)(A) states that, ''A ''Retail Price Improving Order'' or ''RPI Order'' is an Order Type with a Non-Display Order Attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special execution process described in Rule 4780. A Retail Price Improving Order may be entered in price increments of $0.001. RPI Orders collectively may be referred to as ''RPI Interest.''

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange requests this waiver so that it can correct an error in its rulebook as soon as possible to avoid any potential confusion regarding the operation of the Retail Liquidity Identifier. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest so that the Exchange's rulebook accurately represents the operation of the Retail Liquidity Identifier without undue delay. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2022–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2022–025. 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 offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2022–025, and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27380 Filed 12–16–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96488; File No. SR–NYSECHX–2022–30]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.19

December 13, 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 December 8, 2022, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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 7.19 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 7.19 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 Participants' efforts to manage their risk, the Exchange amended its rules to add Rule 7.19 (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

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12), (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 88903 (May 19, 2020), 85 FR 31578 (May 26, 2020) (SR–NYSECHX–2020–14).

[5] The terms ''Entering Firm'' and ''Clearing Firm'' are defined in Rule 7.19.

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 7.19

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 but not limited to 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 already in place on the Exchange's affiliate exchange NYSE American LLC (''NYSE American''),[7] as well as those on the Cboe and MEMX equities exchanges.[8] 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.

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 7.31(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

[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 7.19.

[7] *See* NYSE American Rule 7.19E; *see also* Securities Exchange Act Release No. 96403 (November 29, 2022) (SR–NYSEAMER–2022–53).

[8] *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.

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 7.31(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 Participants Under Rule 15c3–5

The proposed Pre-Trade Risk Controls described here are meant to supplement, and not replace, the Participants' 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 a Participant's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet a Participant's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5 under the Act [9] (''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 Participant.[10]

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,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] 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 NYSE American,[13] as well as those on the Cboe and MEMX equities exchanges,[14] 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 Participants 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 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).[15] 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 Participants 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 Participants who have opted to use the proposed additional Pre-Trade Risk Controls versus those who have not opted to use them.

[9] *See* 17 CFR 240.15c3–5.

[10] *See also* Commentary .01 to Rule 7.19, which provides that ''[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the Participant'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 Participant.''

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 7.

[14] *See supra* note 8.

[15] LOC Orders are not subject to the Limit Order Price Protection in Rule 7.31(a)(2)(B).

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 [16] and Rule 19b–4(f)(6) thereunder.[17] 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.[18]

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) [19] 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–NYSECHX–2022–30 on the subject line.

Paper Comments

• Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2022–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSECHX–2022–30 and should be submitted on or before January 9,2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27382 Filed 12–16–22; 8:45 am]

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[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 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.

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96480; File No. SR–PEARL–2022–54]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule

December 13, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 30, 2022, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Pearl Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section 1)a) of the Fee Schedule to lower Taker fees (defined below) in certain Tiers for transactions in Penny Classes (defined below) for the Priority Customer [3] origin.

Background

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member [4] on MIAX Pearl in the relevant, respective origin type (not including Excluded Contracts) [5] (as the numerator) expressed as a percentage of (divided by) TCV [6] (as the denominator). In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[7] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX Pearl System,[8] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO [9] uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Interval Program [10] (''Penny Classes'') than for order executions in standard option classes which are not in the Penny Interval Program (''Non-Penny Classes''), where Members are assessed higher transaction fees and receive higher rebates.

Proposal

The Exchange proposes to amend the Fee Schedule for the Exchange's options market to modify Taker fees in certain Tiers for options transactions in Penny Classes for the Priority Customer origin. Currently, for options transactions in all Penny Classes (except for symbols SPY, QQQ and IWM),[11] the Exchange assesses the following Taker fees for the Priority Customer origin: $0.50 in Tier 1; $0.50 in Tier 2; $0.50 in Tier 3; $0.49 in Tier 4; $0.48 in Tier 5; and $0.47 in Tier 6. The Exchange assesses Taker fees for options transactions in SPY for the Priority Customer origin as follows: $0.46 in Tier 1; $0.46 in Tier 2; $0.45 in Tier 3; $0.44 in Tier 4; $0.43 in Tier 5; and $0.42 in Tier 6. The Exchange also assesses Taker fees for options transactions in QQQ and IWM for the Priority Customer origin as follows: $0.50 in Tier 1; $0.50 in Tier 2; $0.48 in Tier 3; $0.47 in Tier 4; $0.46 in Tier 5; and $0.45 in Tier 6.

The Exchange now proposes to lower the Taker fees in certain Tiers for options transactions in Penny Classes for the Priority Customer origin. In particular, the Exchange proposes to lower the Taker fees for options transactions in all Penny Classes, excluding SPY, QQQ and IWM, for the Priority Customer origin as follows: from $0.50 to $0.48 in Tier 1; from $0.50 to $0.48 in Tier 2; from $0.50 to $0.48 in Tier 3; and from $0.49 to $0.48 in Tier 4. The Exchange also proposes to lower the Taker fees for options transactions in QQQ and IWM for the Priority Customer origin as follows: from $0.50 to $0.48 in Tier 1 and from $0.50 to $0.48 in Tier 2. The purpose of these changes is for business and competitive reasons in order to attract additional Penny Class volume from Members by lowering certain Taker fees in options classes that are typically among the most actively traded

[3] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 of Exchange Rule 100. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100, including Interpretation and Policy .01.

[4] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[6] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[7] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the following process. A MIAX PEARL Market Maker appoints an EEM and an EEM appoints a MIAX PEARL Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* the Definitions Section of the Fee Schedule.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[9] ''ABBO'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from OPRA. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[10] *See* Securities Exchange Act Release No. 88992 (June 2, 2020), 85 FR 35142 (June 8, 2020) (SR–PEARL–2020–06).

[11] *See* Fee Schedule, Section 1)a), note ''*''.

symbols,[12] which should benefit all Exchange participants by providing more trading opportunities and tighter spreads.

Implementation

The proposed changes will be effective beginning December 1, 2022.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of section 6(b)(4) of the Act,[14] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[15]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, as of November 28, 2022, no single exchange has more than approximately 12–13% equity options market share for the month of November 2022.[16] Therefore, no exchange possesses significant pricing power. More specifically, as of November 28, 2022, the Exchange has a market share of approximately 4.47% of executed volume of multiply-listed equity options for the month of November 2022.[17]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes. For example, on February 28, 2019, the Exchange filed with the Commission a proposal to increase Taker fees in certain Tiers for options transactions in certain Penny classes for Priority Customers and decrease Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers (which fee was to be effective March 1, 2019).[18] The Exchange experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that its March 1, 2019, fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in MIAX Pearl's market share and, as such, the Exchange believes competitive forces constrain the Exchange's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes that its proposal is reasonable because it will lower Taker fees for options transactions in Penny Classes in certain Tiers for Priority Customer orders, which should encourage Members to submit more Priority Customer orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads.

Further, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower Taker fees to Priority Customer orders than to non-Priority Customer orders. A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).[19] This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including non-Priority Customers, MIAX Pearl Market Makers, Firms, and Broker-Dealers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

Furthermore, the proposed decrease to Taker fees in Penny Classes for Priority Customer transactions in certain Tiers will encourage Members to send more orders to the Exchange. To the extent that Priority Customer order flow in Penny Classes is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders, which will have the potential to be assessed lower fees and higher rebates. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

For competitive and business reasons, the Exchange believes that lower Taker fees assessable to Priority Customer transactions in QQQ and IWM options in certain Tiers will encourage Members to execute more volume in QQQ and IWM options on behalf of Priority Customers since they will be assessed reduced fees for Priority Customer orders in those options classes which remove liquidity. The Exchange believes for these reasons that offering the reduced Taker fees for Priority Customer transactions in QQQ and IWM options in certain Tiers is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes in the Taker fees for the applicable market participants should continue to encourage the provision of liquidity that enhances the quality of the Exchange's market and increases the number of trading opportunities on the Exchange for all participants who will be able to compete for such opportunities. The proposed rule changes should enable the Exchange to continue to attract and compete for order flow with other exchanges.

The proposed Taker fee decreases are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because the proposal modifies the Exchange's fees in

[12] *See supra* note 10 (adopting the Penny Program that applies to the 363 most actively traded multiply listed option classes).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[16] *See* ''The market at a glance,'' (last visited November 28, 2022), *available at https://www.miaxoptions.com/.*

[17] *See id.*

[18] *See* Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR–PEARL–2019–07).

[19] *See* Exchange Rule 100.

a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[20] and Rule 19b–4(f)(2)[21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email *to rule-comments@sec.gov.* Please include File Number SR–PEARL–2022–54 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2022–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2022–54 and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

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[20] 15 U.S.C. 78s(b)(3)(A)(ii).

[21] 17 CFR 240.19b–4(f)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96489; File No. SR–NYSECHX–2022–31]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Article 17, Rule 5

December 13, 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 December 9, 2022, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article 17, Rule 5 to (1) change how Qualified Contingent Trade (''QCT'') Cross Orders are handled in the Exchange's Brokerplex® order management system, and (2) make certain non-substantive conforming changes. 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 Article 17, Rule 5 (Brokerplex) in order to (1) change how QCT Cross Orders are handled in the Exchange's Brokerplex® order management system, and (2) make certain non-substantive conforming changes.

Background and Proposed Rule Change

The Exchange provides the Brokerplex order management system for use by Institutional Broker Representatives (''IBRs''),[4] to receive, transmit and hold orders from their customers while seeking execution within the NYSE Chicago Marketplace[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] IBRs are also known as Institutional Brokers or ''IBs''. The term ''Institutional Broker'' is defined in Article 1, Rule 1(n) to mean a member of the Exchange who is registered as an Institutional Broker pursuant to the provisions of Article 17 and has satisfied all Exchange requirements to operate as an Institutional Broker on the Exchange.

[5] During the transition to Pillar, the Exchange added the phrase ''NYSE Chicago Marketplace, as applicable'' in Article 17, Rule 5 as an alternative to the term ''Matching System'' then used in the Exchange's rules. *See* Securities Exchange Act

Continued

or elsewhere in the National Market System. Brokerplex also can be used to record trade executions and send transaction reports to a Trade Reporting Facility (''TRF''), as defined in FINRA Rules 6300 *et seq.,* as amended from time-to-time. Brokerplex can also be used to initiate clearing submissions to a Qualified Clearing Agency via the Exchange's reporting systems.

Orders may be entered into Brokerplex manually by an IBR or submitted by an Exchange-approved electronic connection. With certain enumerated exceptions,[6] Brokerplex accepts and handles all of the order types, conditions and instructions accepted by the NYSE Chicago Marketplace pursuant to Rule 7.31. In addition to the order types accepted by the NYSE Chicago Marketplace, Brokerplex permits entry and processing of certain additional order types, conditions and instructions accepted by other market centers. Finally, Brokerplex accepts and processes certain specified order types, conditions and instructions set forth in Article 17, Rule 5(c)(3).

As set forth in Rule 7.31(g), a QCT Cross Order is a Cross Order that is part of a transaction consisting of two or more component orders that qualifies for a Contingent Order Exemption to the Order Protection Rule pursuant to Rule 7.37(f)(5).[7] QCT Cross Orders may thus trade through both manual and protected quotes but may not trade through the Exchange BBO.[8]

QCT Cross Orders are only available to IBRs. While IBRs are not required to use Brokerplex to manage their orders, including QCT Cross Orders, Brokerplex facilitates the execution of QCT Cross Orders by retaining the QCT Cross Order information submitted by the IBRs and providing such information to IBRs in a format that assists IBRs in processing orders and transactions, responding to request for information from customers and regulatory bodies and for other legitimate business purposes.[9]

As noted, many of the order types specified in Rule 7.31 that would be sent directly to the matching engine cannot be entered into Brokerplex. As a practical matter, IBR business on the Exchange consists of facilitating crosses, the majority of which are QCT Cross Orders entered into Brokerplex via an Exchange-approved electronic connection or manually by an IBR. Because QCT Cross Orders are exempt from the Order Protection Rule, QCT Cross Orders entered into Brokerplex can be and usually are executed at venues away from the Exchange. The proposed rule change would require that QCT Cross Orders entered into Brokerplex be initially sent to execute on the Exchange.

Amendment of Article 17, Rule 5(e)

Article 17, Rule 5(e) sets forth the Brokerplex order handling and transmission requirements. Currently, QCT Cross Orders entered into Brokerplex electronically or manually by an IBR can either be submitted (1) to the Exchange's Matching System or the NYSE Chicago Marketplace, as applicable, to execute and then, if they cannot be executed in the Exchange's Matching System or NYSE Chicago Marketplace, as applicable, to another destination according to the IBR's instructions,[10] or (2) directly to another trading center.[11]

The Exchange proposes to amend Article 17, Rule 5(e)(1) to change how QCT Cross Orders are handled in Brokerplex. As proposed, QCT Cross Orders entered into Brokerplex either electronically or manually would be sent to the NYSE Chicago Marketplace to execute in the first instance and then to other trading centers if the order cannot be executed in the NYSE Chicago Marketplace. In other words, IBRs would no longer have the ability to send QCT Cross Orders entered into Brokerplex directly to another trading center in the first instance as provided for in Article 17, Rule 5(e)(1)(B).[12]

All other aspects of the Brokerplex functionality would continue to operate as described in Article 17, Rule 5.

Non-Substantive Conforming Changes

The Exchange proposes to amend Article 17, Rule 5 to eliminate obsolete references to the Exchange's Matching System. During its transition to the Pillar trading system, the Exchange defined ''NYSE Chicago Marketplace'' in Rule 1.1(p) to mean the electronic securities communications and trading facility of the Exchange through which orders are processed or are consolidated for execution and/or display. The definition was intended to replace references to the term ''Matching System'' following the transition to Pillar.[13] Having transitioned to Pillar, ''Matching System'' is obsolete and the Exchange proposes to delete the phrase ''Exchange's Matching System or the'' before ''NYSE Chicago Marketplace'' in each place that it appears in Article 17, Rule 5. The Exchange also proposes a non-substantive change in Article 17, Rule 5(e)(2) by replacing the word ''Institutional Broker'' with ''IBR''.

Implementation

The Exchange anticipates the technology changes associated with the proposed change to Article 17, Rule 5 relating to QCT Cross Orders to be implemented in the first quarter of 2023. The Exchange will announce the implementation date of this proposal via a Brokerplex Release Note.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act,[14] in general, and furthers the objectives of section 6(b)(5),[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed change would promote just and equitable principles of trade and protect investors and the public interest by requiring that QCT Cross Orders entered into Brokerplex be sent to the Exchange for execution in the first instance. Currently, IBRs can send QCT Cross Orders entered into the Exchange-

Release No. 86709 (August 20, 2019), 84 FR 44654, 44663 (August 26, 2019) (SR–NYSECHX–2019–08) (Notice of Filing of Proposed Rule Change for Trading Rules To Support the Transition of Trading to the Pillar Trading Platform). ''Matching System'' is defined in Article 1, Rule 1(z) as one of the electronic or automated order routing, execution and reporting systems provided by the Exchange. As discussed below, the term became obsolete following the transition to Pillar and the Exchange now proposes to delete it from Article 17, Rule 5.

[6] Brokerplex does not accept the following orders specified in Rule 7.31: Inside Limit Orders, Auction-Only Orders, MPL Orders, Tracking Orders, ISOs, Primary Only Orders, Primary Until 9:45 Orders, Primary After 3:55 Orders, Directed Orders, Pegged Orders, Non-Display Remove Modifier, Proactive if Crossed Modifier, Self-Trade Prevention Modifier, and Minimum Trade Size Modifier. *See* Article 17, Rule 5(c)(1).

[7] *See* Rule 7.31(g).

[8] *See* Rule 7.37(f)(5).

[9] *See* Article 17, Rule 5(b).

[10] *See* Article 17, Rule 5(e)(1)(A).

[11] *See* Article 17, Rule 5(e)(1)(B).

[12] As noted, the QCT Cross Order is a type of Cross Order that is only available to IBRs. Cross Orders are two-sided orders with instructions to match the identified buy-side with the identified sell-side at a specified price known as the ''cross price.'' The Exchange will reject a QCT Cross Order if the cross price is not between the BBO, unless it meets Cross with Size requirements, in which case the cross price can be equal to the BB (BO). *See* Rule 7.31(g)(2). Other equities markets do not have a comparable QCT Cross Order type.

[13] *See* note 5, *supra.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

provided Brokerplex order management system either to the Exchange or to an away trading center. As proposed, QCT Cross Orders entered into Brokerplex could only be sent to the Exchange in the first instance for execution. If there is no opportunity to execute on the Exchange, such orders would then be sent to another trading center, at the direction of the IBR. By requiring QCT Cross Orders entered into Brokerplex to be sent to the Exchange first rather than allowing IBRs to execute such QCT Cross Orders in away venues, the Exchange believes that the proposal would enhance the likelihood of QCT Cross Orders to be executed on the Exchange, thereby enabling the Exchange to better compete with other trading centers for the execution of such orders when those orders are entered into Exchange systems.

As noted, although IBRs are not required to use Brokerplex to manage their orders, Brokerplex facilitates entry and execution of QCT Cross Orders by providing IBRs with a comprehensive recordkeeping solution for such orders, which contain both equities and options legs.[16] To the extent that IBRs utilize Brokerplex in order to facilitate their QCT Cross Order business, the Exchange believes that such orders should be required to be executed on the Exchange. The current functionality permits IBRs that utilize Brokerplex to immediately send those orders to away venues. The Exchange believes that if IBRs utilize Brokerplex to facilitate QCT Cross Orders, it would be fair and consistent with just and equitable principles of trade for those orders to be executed on the Exchange. As noted above, a number of order types enumerated in Rule 7.31 currently interact with the Exchange's order book first. Unlike those order types, which as noted are not eligible to be entered into Brokerplex, QCT Cross Orders entered into Brokerplex, do not automatically interact with the NYSE Chicago Marketplace. QCT Cross Orders, for the most part, are routed away for execution because they can trade through a protected quote. The Exchange therefore believes that it is just and equitable to require QCT Cross Orders entered into Brokerplex to be treated similarly to these other order types and sent to the Exchange for execution in the first instance.

In addition, the Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[17] in general, and with section 6(b)(1) [18] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange. In particular, the Exchange believes that the proposed non-substantive conforming changes to delete the words ''Matching System'' throughout Article 17, Rule 5 and replacing the word ''Institutional Broker'' with ''IBR'' in Article 17, Rule 5(e)(2) would add clarity, consistency and transparency to the Exchange's rules. The Exchange believes that adding such clarity, consistency and transparency would also be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that by requiring QCT Cross Orders entered into Brokerplex to be sent to the Exchange before other trading centers, the proposed rule change would increase opportunities for these orders to be executed on the Exchange, thereby improving the Exchange's ability to compete with other trading centers for the execution of QCT Cross Orders.

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 [19] and Rule 19b–4(f)(6) thereunder.[20] 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.

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) [21] 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–NYSECHX–2022–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2022–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[16] *See* Article 17, Rule 5(b).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(1).

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 15 U.S.C. 78s(b)(2)(B).

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSECHX–2022–31 and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27383 Filed 12–16–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96481; File No. SR–GEMX–2022–12]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

December 13, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 7, 2022, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend GEMX's Pricing Schedule at Options 7, Section 5, Legal & Regulatory, to reflect adjustments to FINRA Registration Fees and Fingerprinting Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the additional processing of each initial or amended Form U4, Form U5 or Form BD and electronic Fingerprint Processing Fees to become operative on January 2, 2023. Additionally, the Exchange designates that the FINRA Annual System Processing Fee Assessed only during Renewals become operative on January 2, 2024.[3] The amendments to the paper Fingerprint Fees are immediately effective.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/gemx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposal amends Options 7, Section 5, Legal & Regulatory, to reflect adjustments to FINRA Registration Fees and Fingerprinting Fees.[4] The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of GEMX Members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

The Exchange proposes to amend: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the $15 Second Submission (Electronic) Fingerprint Processing Fee to $20. Each of these fees are listed within GEMX Options 7, Section 5. These amendments are being made in accordance with a FINRA rule change to adjust to its fees.[5]

The Exchange also proposes to amend the following Fingerprint Fees: (1) the $29.50 Initial Submission (Electronic) fee to $31.25;[6] (2) the $44.50 Initial Submission (Paper) fee to $41.25;[7] (3) the $29.50 Third Submission (Electronic) fee to $31.25;[8] and (4) the $44.50 Third Submission (Paper) fee to $41.25.[9] Specifically, today, the FBI fingerprint charge is $11.25[10] and the FINRA electronic Fingerprint Fee will increase from $15 to $20 in 2023.[11] While FINRA did not amend the paper Fingerprint Fee, previously the FBI Fee was reduced from $14.50 to $11.25.[12] The paper Fingerprint Fees are not currently reflecting the amount assessed by FINRA. The amendment to the paper Fingerprint Fees will conform these fees with those of FINRA.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b)

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[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *See* note 4. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[6] This fee includes a $20.00 FINRA fee and $11.25 FBI fee). *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[7] This fee includes a $30 FINRA Fee and a $11.25 FBI Fee. *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[8] This fee includes a $20.00 FINRA fee and $11.25 FBI fee). *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[9] This fee includes a $30 FINRA Fee and a $11.25 FBI Fee. *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[10] *See* Securities Exchange Act Release No. 67247 (June 25, 2012) 77 FR 38866 (June 29, 2012) (SR–FINRA–2012–030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections 4 and 6 of Schedule A to the FINRA By-Laws Regarding Fees Relating to the Central Registration Depository) (''2012 Rule Change'')

[11] *See* note 4.

[12] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

of the Act,[13] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees [15] because the proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons.

These costs are borne by FINRA when a Non-FINRA member uses Web CRD. The Exchange's rule text will reflect the current registration and electronic fingerprint rates that will be assessed by FINRA as of January 2, 2023 for the additional processing of each initial or amended Form U4, Form U5 or Form BD and Second Submission (Electronic) Fingerprint Processing Fee and the registration rates that will be assessed by FINRA as of January 2, 2024 for the FINRA Annual System Processing Fee Assessed only during Renewals.[16]

The Exchange believes it is reasonable to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25.[17] The amendments to the paper Fingerprint Fees will provide all GEMX Members with the correct Fingerprint Fees.

The Exchange believes it is equitable and not unfairly discriminatory to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees [18] because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. Similarly, the Exchange believes it is equitable and not unfairly discriminatory to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25 [19] because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that its proposal to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees [20] does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. The proposal will reflect the fees that will be assessed by FINRA to all Members who register or require fingerprints as of January 2, 2023 and January 2, 2024, respectively.

Similarly, the Exchange believes it does not impose an undue burden on competition to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25 because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2022–12 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–GEMX–2022–12. 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

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[16] *See* note 4.

[17] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[18] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[19] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[20] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

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–GEMX–2022–12 and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27377 Filed 12–16–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96487; File No. SR–NYSENAT–2022–26]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.19

December 13, 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 December 8, 2022, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.19 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 7.19 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 ETP Holders' efforts to manage their risk, the Exchange amended its rules to add Rule 7.19 (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'').

[4] *See* Securities Exchange Act Release No. 88905 (May 19, 2020), 85 FR 31582 (May 26, 2020) (SR–NYSENAT–2020–17).

[5] The terms ''Entering Firm'' and ''Clearing Firm'' are defined in Rule 7.19.

[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 7.19.

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 7.19

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 but not limited to 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 already in place on the Exchange's affiliate exchange NYSE American LLC (''NYSE American''),[7] as well as on the Cboe and MEMX equities exchanges.[8] 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.

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 7.31(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 7.31(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 ETP Holders' 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[9] (''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.[10]

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,[11] in general, and

[7] *See* NYSE American Rule 7.19E; *see also* Securities Exchange Act Release No. 96403 (November 29, 2022) (SR–NYSEAMER–2022–53).

[8] *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.

[9] *See* 17 CFR 240.15c3–5.

[10] *See also* Commentary .01 to Rule 7.19, 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.''

[11] 15 U.S.C. 78f(b).

furthers the objectives of Section 6(b)(5) of the Act,[12] 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 NYSE American,[13] as well as on the Cboe and MEMX equities exchanges,[14] 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 enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 7.

[14] *See supra* note 8.

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).[15] 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 ETP Holders 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 ETP Holders 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.

[15] LOC Orders are not subject to the Limit Order Price Protection in Rule 7.31(a)(2)(B).

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[16] and Rule 19b–4(f)(6) thereunder.[17] 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.[18]

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)[19] of the Act to determine whether the proposed rule

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 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.

[19] 15 U.S.C. 78s(b)(2)(B).

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2022–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2022–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2022–26 and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27381 Filed 12–16–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96482; File No. SR–ISE–2022–26]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

December 13, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 7, 2022, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE's Pricing Schedule at Options 7, Section 9, Legal & Regulatory, to reflect adjustments to FINRA Registration Fees and Fingerprinting Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the additional processing of each initial or amended Form U4, Form U5 or Form BD and electronic Fingerprint Processing Fees to become operative on January 2, 2023. Additionally, the Exchange designates that the FINRA Annual System Processing Fee Assessed only during Renewals become operative on January 2, 2024.[3] The amendments to the paper Fingerprint Fees are immediately effective.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposal amends Options 7, Section 9, Legal & Regulatory, to reflect adjustments to FINRA Registration Fees and Fingerprinting Fees.[4] The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of ISE Members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

The Exchange proposes to amend: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the $15 Second Submission (Electronic) Fingerprint Processing Fee to $20. Each of these fees are listed within ISE Options 7, Section 9. These amendments are being made in accordance with a FINRA rule change to adjust to its fees.[5]

The Exchange also proposes to amend the following Fingerprint Fees: (1) the $29.50 Initial Submission (Electronic)

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *See* note 4. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

fee to $31.25;[6] (2) the $44.50 Initial Submission (Paper) fee to $41.25;[7] (3) the $29.50 Third Submission (Electronic) fee to $31.25;[8] and (4) the $44.50 Third Submission (Paper) fee to $41.25.[9] Specifically, today, the FBI fingerprint charge is $11.25[10] and the FINRA electronic Fingerprint Fee will increase from $15 to $20 in 2023.[11] While FINRA did not amend the paper Fingerprint Fee, previously the FBI Fee was reduced from $14.50 to $11.25.[12] The paper Fingerprint Fees are not currently reflecting the amount assessed by FINRA. The amendment to the paper Fingerprint Fees will conform these fees with those of FINRA.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[13] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees[15] because the proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons.

These costs are borne by FINRA when a Non-FINRA member uses Web CRD. The Exchange's rule text will reflect the current registration and electronic fingerprint rates that will be assessed by FINRA as of January 2, 2023 for the additional processing of each initial or amended Form U4, Form U5 or Form BD and Second Submission (Electronic) Fingerprint Processing Fee and the registration rates that will be assessed by FINRA as of January 2, 2024 for the FINRA Annual System Processing Fee Assessed only during Renewals.[16]

The Exchange believes it is reasonable to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25.[17] The amendments to the paper Fingerprint Fees will provide all ISE Members with the correct Fingerprint Fees.

The Exchange believes it is equitable and not unfairly discriminatory to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees[18] because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. Similarly, the Exchange believes it is equitable and not unfairly discriminatory to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25[19] because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that its proposal to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees[20] does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. The proposal will reflect the fees that will be assessed by FINRA to all Members who register or require fingerprints as of January 2, 2023 and January 2, 2024, respectively.

Similarly, the Exchange believes it does not impose an undue burden on competition to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25 because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection

[6] This fee includes a $20.00 FINRA fee and $11.25 FBI fee). *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[7] This fee includes a $30 FINRA Fee and a $11.25 FBI Fee. *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[8] This fee includes a $20.00 FINRA fee and $11.25 FBI fee). *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[9] This fee includes a $30 FINRA Fee and a $11.25 FBI Fee. *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[10] *See* Securities Exchange Act Release No. 67247 (June 25, 2012) 77 FR 38866 (June 29, 2012) (SR–FINRA–2012–030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections 4 and 6 of Schedule A to the FINRA By-Laws Regarding Fees Relating to the Central Registration Depository) (''2012 Rule Change'')

[11] *See* note 4.

[12] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[16] *See* note 4.

[17] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[18] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[19] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[20] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2022–26 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–ISE–2022–26. 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–ISE–2022–26 and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27378 Filed 12–16–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96485; File No. SR–MRX–2022–26]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

December 13, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 7, 2022, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend MRX's Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, to reflect adjustments to FINRA Registration Fees and Fingerprinting Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the additional processing of each initial or amended Form U4, Form U5 or Form BD and electronic Fingerprint Processing Fees to become operative on January 2, 2023. Additionally, the Exchange designates that the FINRA Annual System Processing Fee Assessed only during Renewals become operative on January 2, 2024.[3] The amendments to the paper Fingerprint Fees are immediately effective.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposal amends Options 7, Section 5, Other Options Fees and Rebates, to reflect adjustments to FINRA Registration Fees and Fingerprinting Fees.[4] The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of MRX Members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

The Exchange proposes to amend: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the $15 Second Submission (Electronic) Fingerprint Processing Fee to $20. Each of these fees are listed within MRX Options 7, Section 5. These amendments are being made in accordance with a FINRA rule change to adjust to its fees.[5]

The Exchange also proposes to amend the following Fingerprint Fees: (1) the $29.50 Initial Submission (Electronic)

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[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *See* note 4. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

fee to $31.25;[6] (2) the $44.50 Initial Submission (Paper) fee to $41.25;[7] (3) the $29.50 Third Submission (Electronic) fee to $31.25;[8] and (4) the $44.50 Third Submission (Paper) fee to $41.25.[9] Specifically, today, the FBI fingerprint charge is $11.25[10] and the FINRA electronic Fingerprint Fee will increase from $15 to $20 in 2023.[11] While FINRA did not amend the paper Fingerprint Fee, previously the FBI Fee was reduced from $14.50 to $11.25.[12] The paper Fingerprint Fees are not currently reflecting the amount assessed by FINRA. The amendment to the paper Fingerprint Fees will conform these fees with those of FINRA.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees[15] because the proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons.

These costs are borne by FINRA when a Non-FINRA member uses Web CRD. The Exchange's rule text will reflect the current registration and electronic fingerprint rates that will be assessed by FINRA as of January 2, 2023 for the additional processing of each initial or amended Form U4, Form U5 or Form BD and Second Submission (Electronic) Fingerprint Processing Fee and the registration rates that will be assessed by FINRA as of January 2, 2024 for the FINRA Annual System Processing Fee Assessed only during Renewals.[16]

The Exchange believes it is reasonable to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25.[17] The amendments to the paper Fingerprint Fees will provide all MRX Members with the correct Fingerprint Fees.

The Exchange believes it is equitable and not unfairly discriminatory to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees[18] because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. Similarly, the Exchange believes it is equitable and not unfairly discriminatory to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25[19] because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that its proposal to increase: (1) the $110 fee for the additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification or one or more disclosure events or proceedings to $155; (2) the $45 FINRA Annual System Processing Fee Assessed only during Renewals to $70; and (3) the electronic Fingerprint Fees from $15 to $20 in accordance with an adjustment to FINRA's fees[20] does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. The proposal will reflect the fees that will be assessed by FINRA to all Members who register or require fingerprints as of January 2, 2023 and January 2, 2024, respectively.

Similarly, the Exchange believes it does not impose an undue burden on competition to correct the paper Fingerprint Fees to reflect the reduced FBI Fee of $11.25 because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection

[6] This fee includes a $20.00 FINRA fee and $11.25 FBI fee). *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[7] This fee includes a $30 FINRA Fee and a $11.25 FBI Fee. *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[8] This fee includes a $20.00 FINRA fee and $11.25 FBI fee). *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[9] This fee includes a $30 FINRA Fee and a $11.25 FBI Fee. *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[10] *See* Securities Exchange Act Release No. 67247 (June 25, 2012) 77 FR 38866 (June 29, 2012) (SR–FINRA–2012–030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections 4 and 6 of Schedule A to the FINRA By-Laws Regarding Fees Relating to the Central Registration Depository) (''2012 Rule Change'')

[11] *See* note 4.

[12] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[16] *See* note 4.

[17] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[18] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[19] *See* 2012 Rule Change at note 6. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual.

[20] The $20 FINRA Fee is in addition to the $11.25 FBI Fee except for the second fingerprint transaction.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2022–26 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–MRX–2022–26. 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–MRX–2022–26 and should be submitted on or before January 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–27379 Filed 12–16–22; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 17731 and # 17732; Florida Disaster Number FL–00183]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Florida (FEMA–4680–DR), dated 12/13/2022.

Incident: Hurricane Nicole.

Incident Period: 11/07/2022 through 11/30/2022.

DATES: Issued on 12/13/2022.

Physical Loan Application Deadline Date: 02/13/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 09/13/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/13/2022, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Brevard, Duval, Flagler, Indian River, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Volusia.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.375
Non-Profit Organizations without Credit Available Elsewhere ...	2.375
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere ...	2.375

The number assigned to this disaster for physical damage is 17731 8 and for economic injury is 17732 0.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–27476 Filed 12–16–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 17729 and # 17730; FLORIDA Disaster Number FL–00181]

Presidential Declaration of a Major Disaster for the State of Florida

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–4680–DR), dated 12/13/2022.

Incident: Hurricane Nicole.

Incident Period: 11/07/2022 through 11/30/2022.

DATES: Issued on 12/13/2022.

Physical Loan Application Deadline Date: 02/13/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 09/13/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/13/2022, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Brevard,

Flagler, Lake, Putnam, Saint Johns, Volusia

Contiguous Counties (Economic Injury Loans Only):

Florida: Alachua, Bradford, Clay, Duval, Indian River, Marion, Orange, Osceola, Polk, Seminole, Sumter.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.625
Homeowners without Credit Available Elsewhere	2.313
Businesses with Credit Available Elsewhere	6.610
Businesses without Credit Available Elsewhere	3.305
Non-Profit Organizations with Credit Available Elsewhere	2.375
Non-Profit Organizations without Credit Available Elsewhere	2.375
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.305
Non-Profit Organizations without Credit Available Elsewhere	2.375

The number assigned to this disaster for physical damage is 17729 8 and for economic injury is 17730 0.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–27478 Filed 12–16–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 11941]

Overseas Schools Advisory Council Notice of Meeting

The Department of State's Overseas Schools Advisory Council will hold its Winter Committee Meeting on Thursday, January 26, 2022, from 9:00 a.m. until approximately 12:00 p.m. Advisory board members will meet in-person, unless local conditions dictate otherwise, in which case members will participate exclusively online. To limit exposure, the meeting is open for the public to participate virtually only.

The Overseas Schools Advisory Council works closely with the U.S. business community on improving American-sponsored schools overseas that are assisted by the Department of State and attended by U.S. government employee dependents, and the children of employees of U.S. corporations and foundations abroad.

This meeting will address issues related to the support provided by the Overseas Schools Advisory Council to American-sponsored overseas schools. The Regional Education Officers in the Office of Overseas Schools will present on the initiatives in the American-sponsored overseas schools.

Public members may attend the meeting virtually, subject to the instructions of the Chair. Those interested in participating virtually should RSVP prior to January 26, 2022 to:

Mr. Mark Ulfers, Office of Overseas Schools, Department of State Tel: 202–261–8200, Email: *OverseasSchools@state.gov*

The Department will send instructions for virtual participation to those that RSVP. Requests for reasonable accommodation should be sent prior to January 26. Requests sent after that date will be considered but may not be possible to fulfill.

Mark Ulfers,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 2022–27414 Filed 12–16–22; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 11939]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: "Bringing the Holy Land Home: The Crusades, Chertsey Abbey, and the Reconstruction of a Medieval Masterpiece" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''Bringing the Holy Land Home: The Crusades, Chertsey Abbey, and the Reconstruction of a Medieval Masterpiece'' at the Iris & B. Gerald Cantor Art Gallery, College of the Holy Cross, Worchester, Massachusetts, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–27371 Filed 12–16–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request to release airport property for land disposal at the Liberal Mid-America Regional Airport (LBL), Liberal, Kansas.

SUMMARY: The FAA proposes to rule and invites public comment on the release and sale of one parcel of land at the Liberal Mid-America Regional Airport (LBL), Liberal, Kansas.

DATES: Comments must be received on or before January 18, 2023.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Brian Fornwalt, Airport Manager, Liberal Mid-America Regional Airport, 302 Terminal Road, PO Box 2199, Liberal, KS 67901, (620) 626–0188.

FOR FURTHER INFORMATION CONTACT: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration,

Airports Division, ACE–620G 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2603, *amy.walter@faa.gov.*

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 1.92 acres of airport property at the Liberal Mid-America Regional Airport (LBL) under the provisions of 49 U.S.C. 47107(h)(2). The Airport Manager has requested from the FAA the release of a 1.92 acre parcel of airport property be released for sale to Charles Posl. The FAA determined the request to release and sell property at Liberal Mid-America Regional Airport (LBL) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release and sale of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Liberal Mid-America Regional Airport (LBL) is proposing the release and sale of a 1.92 acre parcel of airport property. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the release of land and surface rights at the Liberal Mid-America Regional Airport (LBL) from the conditions of the AIP Grant Agreement Grant Assurances, but retaining the mineral rights. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value and the property will continue to be used as a mini-storage commercial business.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, request an appointment and inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Liberal Mid-America Regional Airport.

Issued in Kansas City, MO, on December 13, 2022.

James A. Johnson,

Director, FAA Central Region, Airports Division.

[FR Doc. 2022–27462 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Recommendations From the Changed Product Rule (CPR) International Authorities Working Group (IAWG)

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

ACTION: Notice.

SUMMARY: The FAA announces the availability of recommendations from the CPR IAWG. In December of 2020, Congress passed the Aircraft Certification, Safety, and Accountability Act (ACSAA). Section 117 of the ACSAA required the FAA to form an international team to address areas of concern related to the CPR. The CPR IAWG has recommended specific areas where engagement with the public would be beneficial and broaden the scope of the discussions to a wider audience. The FAA plans to solicit public input at a public meeting which will be announced in a future notice.

ADDRESSES: The CPR IAWG recommendations are available on the FAA's Information for Applicants and Design Approval Holders web page at *https://www.faa.gov/aircraft/air_cert/design_approvals/dah.*

FOR FURTHER INFORMATION CONTACT: Sue McCormick, Strategic Policy for Systems Standards, Aviation Safety, email *9-AVS-DAH-Info@faa.gov.*

SUPPLEMENTARY INFORMATION: Section 117 of the Aircraft Certification Safety and Accountability Act (ACSAA) of 2020 (Pub. L. 116–260) directed the FAA to exercise leadership in the creation of international policies and standards related to the review and reevaluation of the issuance of amended type certificates. The FAA was directed to examine and address recommendations from the entities listed in Section 121(c) [1] of the ACSAA related to the issuance of amended type certificates; to reevaluate existing assumptions and practices inherent in the amended type certificate process and assess whether such assumptions and practices are valid; and ensure, to the greatest extent practicable, that Federal Regulations related to the issuance of amended type certificates are harmonized with the regulations of the other international states of design. The FAA initiated the CPR IAWG in June of 2021 and conducted a comprehensive study of the CPR process, including regulatory requirements (14 CFR 21.19 and 21.101) and guidance material, with international authorities [2] in parallel with an independent study per section 136 of the ACSAA.

The IAWG, after extensive in-depth discussions and research, proposes both rulemaking and guidance improvements for the CPR process. The IAWG identified areas where additional review is needed in order to achieve alignment to the fullest extent possible. The IAWG also recommends engagement with industry in specific areas for advice and additional information.

The FAA encourages industry review of the CRP IAWG recommendations. The FAA will be seeking public input and comments during a forthcoming public meeting regarding the recommendations.

Issued in Washington, DC, on December 12, 2022.

Victor Wicklund,

Acting Director, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2022–27446 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–13–P

[1] The National Transportation Safety Board, the Joint Authorities Technical Review, the Inspector General of the Department of Transportation, the Safety Oversight and Certification Advisory Committee, or any special committee thereof, made recommendations in response to the accident of Lion Air flight 610 on October 29, 2018 and the accident of Ethiopian Airlines flight 302 on March 10, 2019.

[2] European Union Aviation Safety Agency, National Civil Aviation Agency of Brazil (ANAC), Transport Canada, Japan Civil Aviation Board, and Civil Aviation Administration of China.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Nos. NHTSA–2022–0071 and NHTSA–2022–0072; Notice 1]

Diono LLC, Receipt of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petitions.

SUMMARY: Diono LLC, (Diono), has determined that certain models of its child restraint systems do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems.* Diono filed two noncompliance reports dated June 22, 2022, and later amended one of the reports on August 10, 2022. Diono subsequently petitioned NHTSA on July 21, 2022, and July 22, 2022, and later amended one of the petitions on August

18, 2022, for a decision that the subject noncompliances are inconsequential as they relate to motor vehicle safety. This document announces receipt of Diono's petitions.

DATES: Send comments on or before January 18, 2023.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on these petitions. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petitions are granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID numbers for these petitions are shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Paloma Lampert, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–5299.

SUPPLEMENTARY INFORMATION:

I. Overview: Diono determined that certain Diono Everett NXT Booster Seats do not fully comply with paragraph S5.5.2(e) of FMVSS No. 213, *Child Restraint Systems* (49 CFR 571.213) because they do not contain the certification statement.

Diono filed an original noncompliance report dated June 22, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Diono petitioned NHTSA on July 22, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Diono also determined that certain Cambria, Monterey, Radian, Everett, and Solana, model child restraints do not fully comply with paragraphs S5.5.2, S5.5.2(m)(ii), S5.6.1.7(ii), and S5.8.2, of FMVSS No. 213, *Child Restraint Systems* (49 CFR 571.213).

Diono filed an original noncompliance report dated June 22, 2022, and later amended it on August 10, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Diono petitioned NHTSA on July 21, 2022, and later amended it on August 18, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Diono's petitions is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petitions.

II. Child Restraint Systems Involved: Approximately 2,642 Diono Everett NXT Booster Seats, manufactured between October 1, 2020, and March 31, 2021, are potentially involved because they do not comply with S5.5.2(e) of FMVSS No. 213.

In addition, approximately 697,286 Cambria 2, Monterey XT, Monterey 4DXT, Monterey 5, Radian 3R, Radian 3RX, Radian 3RXT, Radian 3QX, Radian 3QXT, Radian 3QXT+, Radian 3RXT Safe+, Everett NXT,[1] Solana, and Solana 2, child seat restraints manufactured between July 12, 2021, and July 21, 2022, are potentially involved.

III. Noncompliances: Diono explains that the labels on the subject Everett NXT Booster Seats are missing the statement ''This child restraint system conforms to all applicable Federal motor vehicle safety standards,'' and therefore the Everett NXT Booster Seats do not fully comply with S5.5.2(e) of FMVSS No. 213.

The subject Cambria 2, Monterey XT, Monterey 4DXT, Monterey 5, Radian 3R, Radian 3RX, Radian 3RXT, Radian 3QX, Radian 3QXT, Radian 3QXT+, Radian 3RXT Safe+, Solana, and Solana 2 child restraints are affixed with labels that were printed with white text on a black background rather than black text on a white background, and therefore, do not fully comply with S5.5.2 of FMVSS No. 213.

The subject Cambria 2, Monterey XT, Monterey 4DXT, Radian 3R, Radian 3RX, Radian 3RXT, Radian 3QX, Radian 3QXT, Everett NXT, Solana, and Solana 2 child restraints were sold with printed instructions that provided an incorrect web address to access the electronic registration form, and therefore, do not fully comply with S5.6.1(7)(ii) and S5.8.2 of FMVSS No. 213.

IV. Rule Requirements: Paragraphs S5.5.2, S5.5.2(e), S5.5.2(m)(ii), S5.6.1.7(ii) and S5.8.2 of FMVSS No. 213 include the requirements relevant to the petitions. Among other required information, each add-on child restraint must be permanently labeled on a white background with black text with the following statements:

- ''This child restraint system conforms to all applicable Federal motor vehicle safety standards.''
- ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send

[1] According to Diono's petition, the Everett NXT model does not comply with S5.6.1.7(ii) and S5.8.2 whereas the other models listed also do not comply with S5.5.2 and S5.5.2(m)(ii) because the required information is not printed on black text with white background.

your name, address, email address if available [preceding four words are optional], and the restraint's model number and manufacturing date to (insert address) or call (insert a U.S. telephone number) or register online at (insert website for electronic registration form). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov.*''

The written instructions required to be provided with each child seat restraint must include the statement provided by S5.6.1.7(i) or S5.6.1.7(ii). If a manufacturer opts to provide a website on the registration card, the manufacturer must include the statement given in S5.6.1.7(ii) which states: ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, email address if available (preceding four words are optional), and the restraint's model number and manufacturing date to (insert address) or call (insert telephone number) or register online at (insert website for electronic registration form). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov.*'' S5.8.2 specifies that the electronic registration form must be accessed directly by the web address that the manufacturer printed on the attached registration form and the form must appear on screen without any further keystrokes on the keyboard or clicks of the mouse.

V. Summary of Diono's Petitions: The following views and arguments presented in this section, ''V. Summary of Diono's Petitions,'' are the views and arguments provided by Diono. They have not been evaluated by the Agency and do not reflect the views of the Agency. Diono describes the subject noncompliances and contends that the noncompliances are inconsequential as they relate to motor vehicle safety.

Diono Everett NXT Booster Seats:

Diono explains that while the Diono Everett NXT Booster Seats do not contain one of the statements required by S5.5.2, the noncompliance is inconsequential because the instruction manual provided with them does contain the missing statement, and consumers can contact Diono's customer service department if they have any questions about product safety or compliance with FMVSSs. Therefore, Diono argues that consumers have an ''adequate and alternative means of being informed of the compliance status.'' Diono references NHTSA's decision on a petition submitted by Mazda, in which the noncompliance was deemed consequential; however, Diono contends that NHTSA's reasoning (noncompliances pertaining to labelling are inconsequential when they do not cause any misunderstanding, especially where other sources of correct information are available) supports the granting of the subject petition.

Furthermore, Diono believes that it is unlikely consumers would conclude that the subject Diono Everett NXT Booster Seats do not comply FMVSS No. 213, ''given that no child restraint can be legally sold in the United States without such compliance.'' Diono contends that consumers would instead ''assume that products on the market meet mandatory safety standards, whatever those standards might be.''

Cambria, Monterey, Radian, Everett, and Solana Models

Diono believes that the noncompliant text and background colors used on the labels affixed to the subject Cambria, Monterey, Radian, and Solana model child restraint systems are inconsequential to motor vehicle safety because Diono claims that the colors used still fulfill the purpose of the requirement. Diono states that the noncompliant labels use the same black and white contrast that is required but in reverse and the purpose of the requirement to conspicuously provide the information on the label is fulfilled.

Diono states that ''[t]o ensure compliance with the regulation and before manufacture of the affected child restraints, Diono proactively had all labels reviewed and approved by Calspan Corporation.'' Diono included copies of the reports prepared by Calspan with its petition as Exhibits B through O. Diono states that Calspan concluded that the affected labels complied with FMVSS No. 213 and contends that ''Calspan's finding that the affected labels complied with FMVSS [No.] 213 supports the conclusion that Diono's particular use of the chosen colors provides the necessary level of conspicuity.''

Diono also states that it has corrected future production to use a label with the black text on white background, as required by S5.5.2. Diono notes that NHTSA has denied a petition submitted by Baby Jogger, LLC, concerning a similar noncompliance; however, Diono states that the labels at issue in that petition were difficult to read and ''did not fully comply with numerous other provisions of S5.5.2 concerning font, capitalization, and incorrect sequencing of text and warnings.'' Unlike the noncompliant labels in Baby Jogger, LLC's petition, Diono believes that its noncompliant labels should be found inconsequential to motor vehicle safety because all the required information is still present and the label is ''conspicuous and legible.''

In both petitions, Diono states that NHTSA has previously explained that it might consider a labeling noncompliance to be inconsequential in situations where the label has a misspelled word, or is printed in the wrong format or wrong type size if the noncompliance does not cause any misunderstanding, especially where other sources of correct information are available.[2] Furthermore, Diono states that it has not received any reports or inquiries regarding the subject noncompliances.

Diono also determined that the written instructions sold with the affected child restraint systems provided a web address that did not directly access the electronic registration form. Diono explained that the noncompliance occurred because ''an IT contractor who was updating Diono's website failed to comply with the requirement not to disturb the registration page.'' Diono says that it has corrected the issue by redirecting the provided web address to allow the consumer to access the registration form as required. Diono believes that this noncompliance does not ''negatively impact motor vehicle safety because the availability of an electronic registration form on the website (1) is voluntary by regulation and (2) could still be located and completed by consumers in an effective manner.'' Diono further explains that consumers affected by this noncompliance were still able to navigate to Diono's home web page via the incorrect web address where the consumer could access the link to the registration form.

According to Diono, the purpose of the requirement to provide a web address to access the registration was still fulfilled ''even if the manner by which consumers temporarily did this did not fully comply'' with the requirements provided in FMVSS No. 213. Diono notes that it was ''actively receiving electronic registrations through its website throughout the time period at issue.'' Therefore, Diono states that consumers were ''consistently able to redirect themselves to the appropriate registration link and effectuate registration.'' Diono says that it did not receive any reports that consumers were unable to register their child restraint system.

[2] Diono cites Mazda North American Operations; Denial of Petition for Inconsequentiality; 86 FR 7170–01 (Jan. 26, 2021).

Diono further contends that "it is not unusual for any business to experience extended, unexpected and even undiagnosed downtime or impaired function of pages on its website, which it learns of only when reported, and promptly remedies." Diono states that consumers are able to effectively navigate websites to find the intended web page, which it says, "may complicate the supplier's ability to recognize such issues in the first place." Moreover, Diono states, "If technical difficulties with a supplier's registration website were consequential to motor vehicle safety, a motor vehicle equipment supplier would need to file a Part 573 report every time their website experienced a material service interruption or had a miscommunication with its web development team."

Diono concludes by stating its belief that the subject noncompliances are inconsequential as they relate to motor vehicle safety and its petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on these petitions only applies to the subject child restraints that Diono no longer controlled at the time it determined that the noncompliances existed. However, any decision on these petitions does not relieve child restraint distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant child restraint systems under their control after Diono notified them that the subject noncompliances existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–27387 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Great Lakes St. Lawrence Seaway Development Corporation

Great Lakes St. Lawrence Seaway Development Corporation Advisory Board—Notice of Public Meetings

AGENCY: Great Lakes St. Lawrence Seaway Development Corporation (GLS); USDOT.

ACTION: Notice of public meetings.

SUMMARY: This notice announces the public meetings via conference call of the Great Lakes St. Lawrence Seaway Development Corporation Advisory Board.

DATES: The public meetings will be held on (all times Eastern):

- Tuesday, January 24, 2023, from 2 p.m.–4 p.m. EST
  - Requests to attend the meeting must be received by January 19, 2023.
  - Requests for accommodations to a disability must be received by January 19, 2023.
  - If you wish to speak during the meeting, you must submit a written copy of your remarks to GLS by January 19, 2023.
  - Requests to submit written materials to be reviewed during the meeting must be received no later than January 19, 2023.
- Tuesday, May 2, 2023, from 2 p.m.–4 p.m. EDT
  - Requests to attend the meeting must be received by April 27, 2023.
  - Requests for accommodations to a disability must be received by April 27, 2023.
  - If you wish to speak during the meeting, you must submit a written copy of your remarks to GLS by April 27, 2023.
  - Requests to submit written materials to be reviewed during the meeting must be received no later than April 27, 2023.
- Tuesday, July 18, 2023, from 2 p.m.–4 p.m. EDT
  - Requests to attend the meeting must be received by July 13, 2023.
  - Requests for accommodations to a disability must be received by July 13, 2023.
  - If you wish to speak during the meeting, you must submit a written copy of your remarks to GLS by July 13, 2023.
  - Requests to submit written materials to be reviewed during the meeting must be received no later than July 13, 2023.
- Tuesday, November 14, 2023, from 2 p.m.–4 p.m. EST
  - Requests to attend the meeting must be received by November 9, 2023.
  - Requests for accommodations to a disability must be received by November 9, 2023.
  - If you wish to speak during the meeting, you must submit a written copy of your remarks to GLS by November 9, 2023.
  - Requests to submit written materials to be reviewed during the meeting must be received no later than November 9, 2023.

ADDRESS: The meetings will be held via conference call at the GLS's Headquarters, 1200 New Jersey Avenue SE, Suite W62–300, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kevin O'Malley, Strategic Advisor for Financial and Resource Management, Great Lakes St. Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE, Suite W62–300, Washington, DC 20590; 202–366–0091.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of meetings of the GLS Advisory Board. The agenda for each meeting is the same and will be as follows:

Tuesday, January 24, 2023, from 2 p.m.–4 p.m. EST
Tuesday, May 2, 2023, from 2 p.m.–4 p.m. EDT
Tuesday, July 18, 2023, from 2 p.m.–4 p.m. EDT
Tuesday, November 14, 2023, from 2 p.m.–4 p.m. EST

1. Opening Remarks
2. Consideration of Minutes of Past Meeting
3. Quarterly Report
4. Old and New Business
5. Closing Discussion
6. Adjournment

Public Participation

Attendance at the meeting is open to the interested public. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact the person listed under the heading, **FOR FURTHER INFORMATION CONTACT**. There will be three (3) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of

registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the GLS conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks for inclusion in the meeting records and for circulation to GLS Advisory Board members. All prepared remarks submitted will be accepted and considered as part of the meeting's record. Any member of the public may submit a written statement after the meeting deadline, and it will be presented to the committee.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC.

Carrie Lavigne,

(Approving Official), Chief Counsel, Great Lakes St. Lawrence Seaway Development Corporation.

[FR Doc. 2022–27369 Filed 12–16–22; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On December 6, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is blocked under the relevant sanctions authorities listed below.

Individuals

1. CALDERON RIJO, Jose (a.k.a. ''La Arana'' (Latin: ''La Araña'')), Dominican Republic; DOB 04 Dec 1969; POB La Romana, Dominican Republic; nationality Dominican Republic; citizen Dominican Republic; Gender Male; Cedula No. 02601165380 (Dominican Republic) (individual) [ILLICIT–DRUGS–EO14059]. Sanctioned pursuant to section 1(a)(i) of Executive Order 14059 of December 15, 2021, ''Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade'' (the ''Order''), for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

Dated: December 6, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–27453 Filed 12–16–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; U.S. Income Tax Return for Individual Taxpayers

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden associated with the U.S. Income Tax Return Forms for Individual Taxpayers.

DATES: Comments should be received on or before January 18, 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: U.S. Income Tax Return for Individual Taxpayers.

OMB Control Number: 1545–0074.

Form Number: Form 1040 and affiliated return forms.

Abstract: IRC sections 6011 & 6012 of the Internal Revenue Code require individuals to prepare and file income tax returns annually. These forms and related schedules are used by individuals to report their income subject to tax and compute their correct tax liability. This information collection request (ICR) covers the actual reporting burden associated with preparing and submitting the prescribed return forms, by individuals required to file Form 1040 and any of its' affiliated forms as explained in the attached table.

Current Actions: There have been changes in regulatory guidance related to various forms approved under this approval package during the past year. Additionally, there have been additions and removals of some forms included in this approval package. The number of estimated filers for FY22 has been increased based on data on the number of Tax Year 2021 Form 1040 filings and IRS models have been updated to account for macroeconomic inputs such as inflation. Overall, updated tax return data adjustments result in a slightly lower average time burden per response and a slightly higher out-of-pocket cost per response.

Affected Public: Individuals or households.

Estimated Number of Respondents: 172,600,000.

Total Estimated Time: 2.211 billion hours (2,211,000,000 hours).

Estimated Time per Respondent: 12.81 hours.

Total Estimated Monetized Time: $42.460 billion ($42,460,000,000).

Estimated Monetized Time per Respondent: $246.

Total Estimated Out-of-Pocket Costs: $42.972 billion ($42,972,000,000).

Estimated Out-of-Pocket Cost per Respondent: $249.

Total Monetized Burden Costs: $85.432 billion ($85,432,000,000).

Estimated Total Monetized Burden per Respondent: $495.

ESTIMATED AVERAGE TAXPAYER BURDEN FOR INDIVIDUALS FILING a 1040 BY ACTIVITY

Primary form filed or type of taxpayer		Time burden					Money burden	
	Percentage of returns	Average time burden (hours) *					Average cost (dollars)	Total monetized burden (dollars)
		Total time	Record keeping	Tax planning	Form completion and submission	All other		
All Taxpayers	100	13	6	2	4	1	$250	$500
Type of Taxpayer:								
Nonbusiness **	72	8	3	1	3	1	140	280
Business ***	28	25	12	5	6	2	530	1,060

Note: This table does not include 1040NR, 1040NR–EZ, and 1040X filers.
* Detail may not add to total due to rounding. Hours are rounded to nearest hour. Dollars rounded to the nearest $10.
** A ''nonbusiness'' filer does not file any of these schedules or forms with Form 1040.
*** A ''business'' filer files one or more of the following with Form 1040: Schedule C, C–EZ, E, F, Form 2106, or 2106–EZ.
Source: RAAS:KDA (11–21–2022).

TAXPAYER BURDEN STATISTICS BY TOTAL POSITIVE INCOME QUINTILE

	Average time (hours)	Average out-of-pocket costs	Average total monetized burden
All Filers			
Total positive income quintiles			
0 to 20	7.3	$76	$136
20 to 40	10.9	126	233
40 to 60	11.6	162	313
60 to 80	13.1	226	457
80 to 100	21.6	664	1,351
Wage and Investment Filers			
Total Income Decile:			
0 to 20	6.2	65	115
20 to 40	8.9	109	200
40 to 60	8.6	133	256
60 to 80	8.5	173	348
80 to 100	9.8	298	651
Self Employed Filers			
Total Income Decile:			
0 to 20	13.4	132	243
20 to 40	20.3	204	388
40 to 60	22.4	261	513
60 to 80	23.0	341	694
80 to 100	31.7	978	1,952

Source: RAAS:KDA (11–21–2022).

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–27468 Filed 12–16–22; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of the Treasury (''Treasury'' or ''the Department''), Departmental Offices (DO) proposes to establish a new system of records within its inventory of records systems, subject to the Privacy Act of 1974, as amended titled ''Departmental Offices .412 Integrated Library System (ILS) Records.'' This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by DO. The Treasury Library (''Library'') in the Office of Privacy, Transparency, & Records uses the records in the ILS to keep track of items borrowed by DO employees from the Library's collection and to ensure that all items are returned to the Library in a timely manner and/or upon a DO employee's resignation from the Department.

DATES: Written comments must be received by January 18, 2023. The system and the routine uses in this action will be effective on January 18,

2023 unless Treasury receives comments and determines that changes to the system of records notice are necessary.

ADDRESSES: Comments may be submitted to the Federal eRulemaking Portal electronically at *https://www.regulations.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Treasury to Make the comments available to the public. Please note that public comments are submitted through *https://www.regulations.gov,* a public website. All comments will be public and capable of viewing by other members of the public. Due to COVID–19-related restrictions, Treasury has temporarily suspended the public's ability to provide comments by mail. In general, Treasury will post all comments to *https://www.regulations.gov* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received, including attachments and other supporting material, will be part of the public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For questions about this notice and privacy issues, contact: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, & Records, (202–622–5710), U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; email: *privacy@treasury.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act, the Department has conducted a review and determined that the ILS is a system or record. This is a result of various changes and updates, including more advanced electronic information technologies such as cloud technology. The Library uses the records in the ILS to keep track of items borrowed by registered users from the Library's collection and to ensure that all items are returned to the Library in a timely manner and/or upon a Treasury employee's resignation from the Department. In accordance with 5 U.S.C. 552a(r), Treasury has provided a report of this new system to the Office of Management and Budget (OMB) and to the U.S. Congress.

Dated: December 13, 2022.

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

SYSTEM NAME AND NUMBER:

Department of the Treasury, Departmental Offices .412 Integrated Library System (ILS) Records.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of the Treasury, Departmental Offices, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

Hosted on Workplace.gov Community Cloud—Moderate, and accredited FedRAMP Moderate platform built on Amazon Web Services Commercial Cloud us-east 1.

SYSTEM MANAGER(S):

Treasury Library, Office of Privacy, Transparency, & Records, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 1907; and 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

The information is maintained and used to keep track of items borrowed by registered users from the Library's collection and to ensure that all items are returned to the Library in a timely manner and/or upon an employee's resignation from the Department.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information on current DO employees who have registered as library patrons/users.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system includes, but is not limited to, records on checked-out and/or checked-in items contained in the Library's collection. The records may include, but are not limited to, information such as the individual's name, Department email address, and Library patron barcode number.

RECORD SOURCE CATEGORIES:

DO employees who provide contact information to the library to check-out library materials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy of 1974, 5 U.S.C. 552a(b) records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the United States Department of Justice (''DOJ''), for the purpose of representing or providing legal advice to the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

(a) The Department or any component thereof;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where the DOJ or the Department has agreed to represent the employee; or

(d) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; and the use of such records by the DOJ is deemed by the DOJ or the Department to be relevant and necessary to the litigation.

(2) To a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(5) To appropriate agencies, entities, and persons when (1) the Department of the Treasury and/or one of its bureaus suspects or has confirmed that there has been a breach of the system of records; (2) the Department of the Treasury and/or bureau has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of the Treasury and/or bureau (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of the Treasury's and/or bureau's efforts to respond to the suspected or confirmed

breach or to prevent, minimize, or remedy such harm;

(6) To another Federal agency or Federal entity, when the Department of the Treasury and/or bureau determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(7) To disclose information to DO managers or supervisors to facilitate the recovery of books or other lent library materials that are overdue.

(8) To disclose information to contractors performing or working on a contract to provide library and/or IT services for the Federal Government who may require access to this system of records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained electronically in the ILS database. The database is password protected and is hosted in a secure cloud environment.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in this system may be retrieved by the patron's name, Treasury-issued email address, and barcode number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Information in this system is maintained and disposed of in accordance with the disposition authority of the (NARA General Records Schedule (GRS) 4.4 as follows:

DAA–GRS–2015–0003–0002: Library operations records—Destroy when business use ceases. The electronic records, files, and data are destroyed by erasure of the electronic data.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic data are stored within the Treasury accredited cloud, Workplace.gov Community Cloud—Moderate. Access to the electronic data is restricted to Library staff, IT staff and contractors, and ILS who maintain the networks and services. Other Treasury employees, contractors, vendors, and users may be granted on a ''need-to-know'' basis. The Treasury's data are protected by the DO and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the Federal Information Security Modernization Act of 2014, the OMB, the Department of Defense Security Technical Implementation Guides, and the National Institute of Standards and Technology.

The Library may print paper copies of the electronic records for various short-term uses, as necessary. These paper copies are stored in a secure location in the Library when not in use. These paper copies are destroyed when no longer needed.

RECORDS ACCESS PROCEDURES:

See ''Notification Procedure'' below.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing, in accordance with Treasury's Privacy Act regulations (located at 31 CFR 1.26), to the Freedom of Information Act (FOIA) and Transparency Liaison, whose contact information can be found at *https://home.treasury.gov/footer/freedom-of-information-act/foia-requester-service-centers-foia-public-liaisons* If an individual believes more than one bureau maintains Privacy Act records concerning him or her, the individual may submit the request to the Office of Privacy, Transparency, & Records, FOIA and Transparency, Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220.

No specific form is required, but a request must be written and:

- Be signed and either notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization;
- State that the request is made pursuant to the FOIA and/or Privacy Act disclosure regulations;
- Include information that will enable the processing office to determine the fee category of the user;
- Be addressed to the bureau that maintains the record (in order for a request to be properly received by the Department, the request must be received in the appropriate bureau's disclosure office);
- Reasonably describe the records;
- Give the address where the determination letter is to be sent;
- State whether the requester wishes to inspect the records or have a copy made without first inspecting them; and
- Include a firm agreement from the requester to pay fees for search, duplication, or review, as appropriate. In the absence of a firm agreement to pay, the requester may submit a request for a waiver or reduction of fees, along with justification of how such a waiver request meets the criteria for a waiver or reduction of fees found in the FOIA statute at 5 U.S.C. 552(a)(4)(A)(iii).

You may also submit your request online at *https://home.treasury.gov/footer/freedom-of-information-act/submit-a-request.*

EXEMPTION PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2022–27386 Filed 12–16–22; 8:45 am]

BILLING CODE 4810–AK–P

FEDERAL REGISTER

Vol. 87 Monday,

No. 242 December 19, 2022

Part II

Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 212, 227 and 252

Defense Federal Acquisition Regulation Supplement: Small Business Innovation Research Data Rights (DFARS Case 2019–D043); Proposed Rule

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 227 and 252

[Docket DARS–2020–0033]

RIN 0750–AK71

Defense Federal Acquisition Regulation Supplement: Small Business Innovation Research Data Rights (DFARS Case 2019–D043)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the data-rights portions of the Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directives. DoD will hold a public meeting to hear the views of interested parties.

DATES: *Comment due date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before February 17, 2023, to be considered in the formation of a final rule.

Public meeting date: A virtual public meeting will be held on February 2, 2023, from 1 p.m. to 5 p.m., Eastern time. The public meeting will end at the stated time, or when the discussion ends, whichever comes first.

Registration date: Registration to attend the public meeting must be received no later than close of business on January 26, 2023. Information on how to register for the public meeting may be found under the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: *Public Meeting:* A virtual public meeting will be held using Zoom video conferencing software.

Submission of Comments: Submit comments identified by DFARS Case 2019–D043, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2019–D043.'' Select ''Comment'' and follow the instructions provided to submit a comment. Please include ''DFARS Case 2019–D043'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2019–D043 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. David E. Johnson, telephone 202–913–5764.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement the intellectual property (*e.g.,* data rights) portions of the revised Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program Policy Directives. The Small Business Administration (SBA) published in the **Federal Register** proposed amendments to the SBIR Program and STTR Program Policy Directives, which included combining the two directives in a single document, on April 7, 2016, at 81 FR 20483. The final combined SBIR/STTR Policy Directive was published on April 2, 2019, at 84 FR 12794, and became effective on May 2, 2019.

DoD published an advance notice of proposed rulemaking (ANPR) on August 31, 2020, at 85 FR 53758, providing draft DFARS revisions and requesting written public comments. DoD hosted public meetings to obtain the views of interested parties regarding the ANPR on January 14, 2021, and January 15, 2021.

The preamble to the ANPR provided detailed explanations of revisions related to—

- A single, non-extendable, 20-year SBIR/STTR data protection period, rather than a 5-year period that can be extended indefinitely;
- Perpetual government purpose rights (GPR) license rights after the expiration of the SBIR/STTR data protection period, rather than unlimited rights; and
- Definitions that harmonize terminology used in the Policy Directive and the Federal Acquisition Regulation (FAR) and DFARS implementations.

Eight respondents submitted public comments in response to the ANPR.

II. Public Meeting

DoD is interested in continuing a dialogue with experts and interested parties in Government and the private sector regarding amending the DFARS to implement the SBIR/STTR Policy Directive.

Registration: Individuals wishing to participate in the virtual meeting must register by January 26, 2023, to facilitate entry to the meeting. Interested parties may register for the meeting by sending the following information via email to *osd.dfars@mail.mil* and including ''Public Meeting, DFARS Case 2019–D043'' in the subject line of the message:

- Full name.
- Valid email address, which will be used for admittance to the meeting.
- Valid telephone number, which will serve as a secondary connection method. Registrants must provide the telephone number they plan on using to connect to the virtual meeting.
- Company or organization name.
- Whether the individual desires to make a presentation.

Pre-registered individuals will receive instructions for connecting using the Zoom video conferencing software not more than one week before the meeting is scheduled to commence.

Presentations: Presentations will be limited to 5 minutes per company or organization. This limit may be subject to adjustment, depending on the number of entities requesting to present, in order to ensure adequate time for discussion. If you wish to make a presentation, please submit an electronic copy of your presentation via email to *osd.dfars@mail.mil* no later than the registration date for the specific meeting. Each presentation should be in PowerPoint to facilitate projection during the public meeting and should include the presenter's name, title, organization affiliation, telephone number, and email address on the cover page.

Correspondence, Comments, and Presentations: Please cite ''Public Meeting, DFARS Case 2019–D043'' in all correspondence related to the public meeting. There will be no transcription at the meeting. The submitted presentations will be the only record of the public meeting and will be posted to the following website at the conclusion of the public meeting: https://www.acq.osd.mil/dpap/dars/technical_data_rights.html.

III. Discussion and Analysis

DoD reviewed the public comments in the development of the proposed rule. A discussion of the comments and the changes made to the proposed rule in response to those comments is provided, as follows:

A. Summary of Significant Changes from the ANPR

Edits are made to the proposed rule based on the public comments. The proposed rule clarifies DFARS 227.7104–1, 227.7104–2, and 227.7104–3, and the following DFARS contract clauses to reflect the objectives of the SBIR/STTR Policy Directive—

• 252.227–7013, Rights in Technical Data—Noncommercial Items;
• 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation;
• 252.227–7015, Technical Data—Commercial Items;
• 252.227–7016, Rights in Bid or Proposal Information; and
• 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program.

Edits are made to the guidance at DFARS 227.7104–1 that mirror the policies at DFARS 227.7103–1(c) and (d). These instructions prohibit contracting officers from requiring offerors to relinquish SBIR/STTR data rights or from rejecting offerors solely due to SBIR/STTR data rights restrictions. Similar to the guidance at DFARS 227.7103–10(a)(5), the proposed rule also indicates that, during the source selection process, the Government may evaluate the impact of restrictions on the Government's ability to use or disclose technical data or computer software in a manner consistent with acquisition preferences and other guidance applicable to SBIR/STTR offerors.

DFARS 252.227–7018 and the associated guidance to contracting officers are revised to indicate that the term SBIR/STTR data encompasses all technical data or computer software developed or generated in the performance of a phase I, II, or III SBIR/STTR contract or subcontract.

The proposed rule also deletes the Alternate I clause for DFARS 252.227–7018. The clause is directed to the Government's publication of technical data or software with a perpetual GPR license, which conflicts with the scope of that license.

In addition, the proposed rule updates the marking requirements in DFARS 252.227–7018 to require an ''unlimited rights'' marking for technical data or software furnished to the Government without restrictions. Because the current marking paradigm does not include an ''unlimited rights'' marking, Government personnel may be unsure whether technical data or computer software with no restrictive markings has been provided with an ''unlimited rights'' license or the restrictive marking was inadvertently omitted. The SBIR/STTR Policy Directive emphasizes the need to protect the intellectual property (IP) interests of small businesses. To achieve this goal, DoD has updated its marking requirements to resolve a long-standing gap that may negatively impact the IP interests of small businesses. The proposed rule provides a transparent and consistent framework that permits the Government to easily identify and resolve inadvertently omitted restrictive markings. To ensure consistency between DFARS 252.227–7018 and the other noncommercial technical data and software rights clauses, this revision has also been applied to DFARS 252.227–7013 and DFARS 252.227–7014 for noncommercial technical data and software. For similar reasons, the ''omitted markings'' procedures in DFARS 252.227–7018 (which are discussed in the guidance at DFARS 227.7103–10 and 227.7203–10) have been applied to DFARS 252.227–7013 and DFARS 252.227–7014. This allows DoD to better protect the IP interests of all of its industry partners.

Lastly, the proposed rule includes revisions to the requirements governing restrictive markings to address concerns raised in the public comments and recent case precedent (see, *e.g.,* The Boeing Co. v. Secretary of the Air Force, 983 F.3d 1321 (Fed. Cir. 2020)). The proposed revisions clarify the long-standing intent of the DFARS marking requirements to limit restrictive markings on noncommercial technical data and software to those specified in the clauses (including prohibiting restrictive markings directed to non-Governmental third parties) and add an unlimited rights marking to mitigate against the risk of loss of IP rights by an inadvertent omission of restrictive markings. The prohibition of nonstandard markings, including restrictive markings directed to third-party recipients, will reduce confusion for Government personnel seeking to understand the Government's rights, and avoids the need to make case-by-case determinations regarding whether a nonstandard marking—

• Must be corrected as nonconforming;
• Can be ignored as marking the contractor intended to apply only to non-Governmental third parties; or
• Otherwise is not intended to identify and restrict the Government's rights.

This revision facilitates the Government's review of technical data and software deliverables by increasing standardization of noncommercial restrictive markings throughout all DoD contracts. In addition, these simplified marking procedures may be more understandable to small businesses that are unfamiliar with DoD's marking requirements.

For similar reasons to avoid confusion regarding the Government's license rights, the proposed rule also clarifies the more open-ended marking requirement for commercial technical data at DFARS 252.227–7015. The revisions preserve the long-standing approach allowing contractor discretion to choose and use its favored restrictive marking, consistent with commercial practices or other contractor preferences, while clarifying only that the restrictive marking used must accurately reflect the Government's license rights. The proposed revision will prevent confusing restrictive markings that do not comport with the Government's license rights, while preserving flexibility for commercial contractors in how they elect to mark their technical data.

The proposed rule bolsters the existing standards for marking requirements while fostering efficiency, transparency, and consistency for both DoD and its contractors.

B. Analysis of Public Comments

1. Virtual Public Meetings

Comment: One respondent recommended that the DAR Council host a virtual public meeting to discuss the substance of the ANPR.

Response: DoD hosted virtual public meetings on January 14, 2021, and January 15, 2021. The meetings received positive feedback, and DoD plans to host additional virtual public meetings in the future.

2. Clarifying Definitions in DFARS 252.227–7018 and Related Clauses

a. Clarifying the Definition of ''Data''

Comment: A respondent asserted that the definition of the term ''data'' implies that the scope is broader than technical data and computer software. The respondent recommended removing this term and replacing all instances of the term ''data'' with technical data, computer software, or both (as applicable).

Response: DoD has adopted the respondent's recommendation.

b. Clarifying the Definition of ''SBIR/STTR Data''

Comment: Several respondents recommended revising the definition of SBIR/STTR data. The respondents recommended referencing SBIR subcontracts in the definition. The respondents also recommended emphasizing that SBIR/STTR data applies in the context of phase I, II, and III contracts. Furthermore, the respondents recommend referencing agreements that are not governed by the FAR, such as other transaction agreements, grants, cooperative agreements, and cooperative research and development agreements. In

addition, the respondents recommended referencing instruments such as task orders, delivery orders, and blanket purchase agreements.

Response: DoD partially adopted the respondents' recommendations by referencing phase I, II, and III SBIR/STTR contracts in the definition of SBIR/STTR data in DFARS 252.227–7018 and the guidance at DFARS 227.7104–2(a)(2). Because the DFARS governs FAR-based procurement contracts only, DoD has not revised the definition of SBIR/STTR data to include references to instruments that are not procurement contracts.

c. Clarifying Definitions in DFARS 252.227–7016

Comment: One respondent stated that there are portions of paragraph (a) of DFARS 252.227–7016 where the subject of these sentences is unclear, and recommended revising the clause to resolve these ambiguities.

Response: DoD reviewed DFARS 252.227–7016, paragraph (a), and made clarifying changes in response to the comment.

d. Definition of ''Form, Fit, and Function Data''

Comment: A respondent recommended revising the definition of the term ''form, fit, and function data'' in DFARS 252.227–7018 to encompass technical data identifying source, functional characteristics, and performance requirements for computer software.

Response: This recommended revision is related to DFARS Case 2021–D005, which implements recent statutory amendments in 10 U.S.C. 2320 and 2446a related to modular open systems approaches. To ensure thorough and consistent application of this revision throughout DFARS 252.227–7013, DFARS 252.227–7015, and DFARS 252.227–7018, this revision will be addressed in DFARS Case 2021–D005.

e. Consistent Use of the Terms ''Generated'' and ''Developed''

Comment: One respondent noted that the term ''generated'' is referenced in DFARS 252.227–7013, but the term is not defined. Therefore, the respondent recommended revising DFARS 252.227–7013 to incorporate the definition of ''generated'' in DFARS 252.227–7018. Some respondents recommended revising DFARS 252.227–7018(c)(5) and the associated guidance at DFARS 227.7104 to reference technical data or software ''developed'' under SBIR/STTR contracts, to ensure consistent use of this term through this clause. Lastly, a respondent recommended revising the definition of the term ''SBIR/STTR data'' to reference technical data or computer software ''first or originally'' developed or generated under SBIR/STTR contracts.

Response: DoD adopted these suggested revisions except for the last one, revising the definition of the term ''SBIR/STTR data''. DoD did not adopt this suggested revision because it could create confusion (*e.g.,* ''first created'' is already included in the definition of the term ''generated'').

3. Resolving Inconsistencies with the Perpetual Government Purpose Rights License in DFARS 252.227–7018

In the ANPR, DoD revised DFARS 252.227–7018(c) to indicate that the Government is granted a perpetual GPR license after the SBIR/STTR protection period has expired. Various respondents noted ambiguities or inconsistencies that resulted from this revision.

a. Alternate I Clause for DFARS 252.227–7018

Comment: One respondent asserted that the Alternate I clause for DFARS 252.227–7018 encourages publication of the SBIR/STTR data, inducing SBIR/STTR firms to publish its data as a requirement for the award. For this reason, the respondent recommended deletion of the Alternate I clause. Another respondent recommended revising the Alternate I clause to specify the Government's license rights after the SBIR/STTR protection period expires.

Response: The perpetual GPR license does not permit publication of SBIR/STTR data after the SBIR/STTR protection period expires. Because the Alternate I clause no longer comports with the Government's license rights in the proposed rule, DoD has proposed to remove the Alternate I clause for DFARS 252.227–7018 in this proposed rule.

b. Clarifying the Scope of DFARS 252.227–7018(c)(1)(vi)

Comment: A respondent asserted that the scope of the technical data and software referenced in DFARS 252.227–7018(c)(1)(vi) is unclear, in view of the Government's perpetual GPR license after the SBIR/STTR protection period expires.

Response: DoD has clarified the scope of DFARS 252.227–7018(c)(1)(vi) to reference ''[t]echnical data or computer software furnished to the Government, under this or any other Government contract or subcontract thereunder, with license rights for which all restrictive conditions on the Government have expired.''

4. Restrictive Markings

a. Applicability of the Marking Requirements to Prototypes and Other Products

Comment: Some respondents recommended applying the marking requirements to prototypes, end items, or products themselves.

Response: As discussed in the ANPR, the proposed rule recognizes and references the SBIR/STTR Policy Directive guidance on prototypes in DFARS 227.7104–2(c). Because the license rights and marking requirements prescribed in DFARS part 227 apply only to technical data and computer software rather than hardware, DoD has not adopted the proposed revision to part 227 and the associated clauses.

b. Clarifying References to Restrictive Markings in DFARS 227.7104–1

Comment: One respondent asserted that it is unclear whether the word ''appropriately'' in the phrase ''appropriately marked with the SBIR/STTR data rights legend'' in DFARS 227.7104–1(a)(2) implies that the marking: (1) conforms with the marking requirements; or (2) is justified under the license terms in DFARS 252.227–7018. The respondent recommended resolving this ambiguity by removing the word ''appropriately'' in DFARS 227.7104–1(a)(2).

Response: DoD has adopted the recommended revision to remove the word ''appropriately'' in DFARS 227.7104–2(a)(2).

c. Protecting the IP Rights of Contractors by Reducing the Risk of Inadvertent Omission of Restrictive Markings

Comment: A respondent noted that the SBIR/STTR program is intended to foster innovation from small businesses. The respondent asserted the current marking requirements penalize small businesses for making inadvertent marking omissions, and the respondent indicated that the proposed marking requirements will discourage new entrants from entering the SBIR/STTR program. The respondent recommended deletion of the ''Omitted Markings'' procedures in DFARS 252.227–7018(g)(2), and suggested that the Government provide templates for guidance on restrictive markings on technical data and software.

Response: Restrictive markings provide a critical tool for protection of the IP interests of DoD contractors, facilitating proper handling of technical data and software by the Government. The ''omitted markings'' procedures in DFARS 252.227–7018 provide contractors with a mechanism for

correcting inadvertently omitted markings, to ensure that contractors have ample opportunities to identify restrictions on technical data or software. These procedures are based on the guidance on ''Terms of Agreement Under SBIR/STTR Awards'' in the SBIR/STTR Policy Directive, and are consistent with long-standing DFARS policy and procedures for omitted markings on noncommercial technical data and computer software (see DFARS 227.7103–10(c) and DFARS 227.7203–10(c)). Deletion of these procedures would be inconsistent with the guidance in the Policy Directive and established DoD noncommercial marking policy and procedure.

DoD acknowledges the respondent's concerns about the risk of a contractor unintentionally losing protection for its IP rights by inadvertently omitting a required restrictive legend. The risk of inadvertent omission may also be increased by the current lack of a requirement for an ''unlimited rights'' marking, relying on the absence of a restrictive marking to indicate that the Government has unlimited rights. Under this approach, contractor and Government personnel may be unsure whether technical data or computer software delivered with no restrictive markings has been intentionally provided with ''unlimited rights,'' or whether a restrictive marking was inadvertently omitted. The proposed rule resolves this long-standing issue with the marking requirements by adding an unlimited rights marking, similar to an approach previously proposed in DFARS Case 2010–D001(see 75 FR 59412, 59448 September 27, 2010). The revisions establish a marking requirement for all delivered technical data and computer software governed by the SBIR/STTR data rights clause, eliminating the potential confusion regarding whether unmarked data or software is provided with unlimited rights or whether a restrictive marking was inadvertently omitted. The proposed rule provides a transparent and consistent framework that permits both Government and contractor personnel to easily identify and avoid inadvertently omitted restrictive markings, which improves protections for contractors' IP interests. To ensure consistency and address this same concern in the markings required for all noncommercial technical data and computer software, the unlimited rights marking requirement has also been applied to DFARS 252.227–7013 and DFARS 252.227–7014. To minimize administrative burdens for contractors, the unlimited rights marking is identical in all of these clauses.

5. Narrowing or Clarifying the Scope of Certain Categories of License Rights

a. Narrowing the Scope of the GPR License and SBIR/STTR Data Rights License

Comment: One respondent recommended narrowing the GPR license to only allow distribution to covered Government support contractors. Another respondent recommended narrowing the scope of the SBIR/STTR data rights license to prohibit uses of SBIR/STTR data within the Government that would ''undermine the small business concern or successor firm's future commercialization of the associated technology.''

Response: DoD has not adopted the respondent's recommended revisions because the current scope of the SBIR/STTR data rights comports with the guidance set forth in the 2019 SBIR/STTR Policy Directive. Furthermore, the respondent's recommendation does not provide a clear scope of uses permitted within the Government.

b. Clarifying the Scope of the GPR License

Comment: A respondent recommended that the proposed rule provide examples of ''competitive procurements'' to clarify the scope of the GPR license.

Response: DoD has not adopted the recommended revision because this term is well known and is used in various clauses. In addition, examples of competitive procurements may be misconstrued to narrow the scope of the GPR license.

c. Restrictions on Third-Party Recipients of SIBR/STTR Data

Comment: One of the respondents recommended emphasizing restrictions on third-party use of SBIR/STTR data in DFARS 252.227–7018(a)(16)(ii).

Response: DoD has not adopted the respondent's recommended revisions because the restrictions on use of SBIR/STTR data by third-party recipients are already specified in DFARS 252.227–7018(c)(2)(iii).

d. Royalty-Free License Rights

Comment: A respondent recommended revising the scope of the SBIR/STTR data rights license to grant a royalty-free license only upon expiration of the SBIR/STTR data protection period. The respondent also recommended clarifying DFARS 252.227–7018(c) to describe how the royalty-free license rights differ or complement the Government's license rights after the SBIR/STTR data protection period expires.

Response: In DFARS 252.227–7018(c), the grant of ''royalty-free, worldwide, nonexclusive, irrevocable license rights'' applies to all of the categories of license rights in paragraph (c) of the clause. DoD has not adopted the recommended revisions, because the Government's license rights under this clause comport with the guidance provided in the 2019 SBIR/STTR Policy Directive; and the scope of the Government's license rights, during and after the SBIR/STTR protection period, are already defined in DFARS 252.227–7018 paragraphs (c)(2)(ii)(B) and (c)(5).

6. Restructuring Clauses and Revising the Scope of the Applicability of Clauses

Comment: A respondent recommended removing any revisions to the guidance at DFARS 227.7104 related to SBIR/STTR data that later is considered commercial. The respondent also recommended deleting the applicability section in DFARS 252.227–7015(b); revising the applicability sections in DFARS 252.227–7013(b) and DFARS 252.227–7018(b); and retaining the original order of the paragraphs in DFARS 252.227–7013 and 252.227–7018. The respondent also recommended adding an alternate version of DFARS 252.227–7015 that would recognize funding contributions of the Government and the contractors. Other respondents recommended restructuring DFARS 252.227–7018 to combine it with other license rights clauses. One respondent recommended clarification of the scope of the clauses (as discussed in paragraph (b) of these clauses) and the further explanation of application of the prescribed license rights.

Response: DoD added applicability sections to the clauses and the associated guidance to contracting officers to clarify contractors' and contracting officers' understanding of the scope of DFARS 252.227–7013, 252.227–7014, 252.227–7015, and 252.227–7018. These revisions will ensure proper application of the SBIR/STTR data rights clause, as prescribed in the SBIR/STTR Policy Directive, and other clauses. For this reason, DoD has not adopted the respondents' recommendations for removal or revision of the applicability sections. In response to recommendations related to substantial restructuring of the aforementioned clauses and allocation of licenses in DFARS 252.227–7015 based on funding contributions, these revisions are out of scope for the current case.

7. Narrowing the Flowdown Requirements in DFARS 252.227–7018 and Applicability of the Assertion Requirements in DFARS 252.227–7017

a. Assertion Requirements

Comment: One respondent asserted that the identification and assertion requirements in DFARS 252.227–7017 should not be applied to SBIR/STTR data. The respondent provides the following assertions to support this position: (1) technical data and software requirements are not known prior to contract award; (2) the assertions requirement is redundant because Contract Data Requirements Lists (CDRLs) already specify the applicable distribution statement; and (3) some details of software deliverables (such as the software name and version) are unknown prior to contract award.

Response: The assertion requirements are necessary to identify and protect the IP interests of contractors and subcontractors under SBIR/STTR contracts, because they provide a practical document that specifically identifies SBIR/STTR technical data and software furnished with restrictions. CDRLs (which should be included with the solicitation) provide the technical data and software requirements that will allow contractors to identify SBIR/STTR data with restrictions and provide information to the Government on license restrictions. This assertion requirement allows the Government to ask offerors or contractors questions about assertions to efficiently resolve any misconceptions about the Government's license rights. The assertions should clearly identify the technical data or software furnished with restrictions so the Government can understand what deliverables are being referenced and cross-reference the assertions table and the restrictive markings on the deliverables. Assertions tables and CDRLs are not redundant, because distribution statements do not provide specifics of license restrictions, and assertions tables allow contracting officer technical representatives to cross-reference the asserted restrictions with technical data and software deliverables to ensure that they are properly marked. DFARS 252.227–7018 permits revisions to the assertions table ''when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision.'' For these reasons, DoD has not adopted the respondent's recommendations.

b. Flowdown Requirements

Comment: A respondent asserted that the flowdown requirements may significantly increase administrative burden on small businesses. Another respondent recommended revising DFARS 252.227–7013 and 252.227–7014 to indicate that DFARS 252.227–7018 will govern technical data that is SBIR/STTR data. Some respondents recommended revising the flowdown requirements to require contractors to insert DFARS 252.227–7018 in any SBIR/STTR subcontracts as defined by the SBA SBIR/STTR Policy Directive.

Response: These flowdown requirements ensure that subcontractors, including small businesses, are afforded the same protections as prime contractors. If there are no subcontracts for the small business prime contractor or the subcontractors are not delivering technical data, then the flowdown requirements are not applicable. Regardless of the flowdown requirements, the prime contractor is obligated to ensure that the Government is granted the standard license rights under the applicable clauses. The flowdown requirement provides a mechanism to facilitate this license grant.

The DFARS 252.227–7013 definition of ''unlimited rights'' in paragraph (a), DFARS 252.227–7013 paragraph (b)(2), the associated guidance for contracting officers, and the mandatory flowdown requirements in DFARS 252.227–7018 already include the suggested revisions. The proposed rule instructs contracting officers to use DFARS 252.227–7018 when SBIR/STTR data is delivered, developed, or generated during contract performance. In addition, the proposed rule indicates that when a portion of contract performance is governed by the SBIR or STTR program (*e.g.,* performance of one or more subcontracts qualifies as a phase III SBIR or STTR award), the clause at 252.227–7018 applies to the technical data or computer software that is governed by the SBIR or STTR program. Furthermore, DFARS 252.227–7013(b)(2) already indicates that DFARS 252.227–7018 governs SBIR/STTR data, and the flowdown requirements in DFARS 252.227–7018 already require flowdown to subcontracts. For these reasons, DoD has not adopted the respondent's recommendations.

8. Application of the SBIR/STTR Protection Period

Comment: Some respondents recommended clarification on application of the 20-year SBIR/STTR data protection period. One of the respondents recommended clarification on how the SBIR/STTR data protection period is applied for SBIR/STTR contracts that predate the SBIR/STTR Policy Directive, contracts that were awarded with DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program (MAR 2020) (DEVIATION 2020–O0007), and contracts that are extensions or derivations from work performed under those previous contracts.

Response: The proposed rule indicates that the SBIR/STTR data ''protection period is not extended by any subsequent SBIR/STTR contracts under which any portion of that SBIR/STTR data is used or delivered. The SBIR/STTR data protection period of any such subsequent SBIR/STTR contract applies only to the SBIR/STTR data that are developed or generated under that subsequent contract.'' However, DoD has adopted the respondent's recommendation by further clarifying application of the SBIR/STTR protection period in DFARS 252.227–7018(c)(5).

9. STTR Solicitation and Clause Regarding Agreements Between Contractors and Partnering Research Institutions Allocating IP Rights

Comment: A respondent recommended revising 252.227–70XX and 252.227–70YY to only require draft allocation agreements or agreements to negotiate in good faith.

Response: The Government cannot and should not rely upon a draft agreement that is not legally binding or an agreement to simply negotiate with no contractual obligations. Therefore, DoD has not adopted the respondent's recommendation.

10. Additional Comments and Recommendations

a. Negative Impacts of the Updated SBIR/STTR Data Protection Period

Comment: A respondent asserted that the 20-year SBIR/STTR data protection period negatively impacts the Government's use of software related to large systems developed by DoD program managers and laboratories.

Response: DoD notes that the updated SBIR/STTR data protection period limits extension of the protection period. Such limitations do not exist in the extant version of DFARS 252.227–7018. Furthermore, notwithstanding license restrictions on SBIR/STTR data, DoD regularly achieves its technology transition goals using SBIR/STTR data.

b. Guidance on Source Selection Procedures Related to SBIR/STTR Data Rights

Comment: One respondent recommended prescriptive guidance for contracting officers that prohibits deeming an offeror ineligible for contract award due to license restrictions on SBIR/STTR data.

Response: DoD adopted the respondent's recommendation in DFARS 227.7104–1, which mirrors existing language in DFARS 227.7103–1(c) and (d) and 227.7103–10(a)(5).

c. Recommendations Addressed by Existing DFARS Guidance, Recommendations Not Directed to Contracting Officers, and Recommendations Unrelated to License Rights

Comment: A respondent recommended specific language that prohibits preferences or requirements related to collaboration with Federal laboratories or DoD sponsored or funded entities. The respondent also recommended revising the proposed rule to include guidance that is directed to policy or regulatory decision-makers (rather than contracting officers). In addition, the respondent recommended prescriptive guidance that indicates that the SBIR/STTR Policy Directive supersedes DFARS prescriptive guidance, provisions, and clauses. The respondent also recommended prescriptive guidance regarding contractor copyright ownership; patent rights for small businesses; prohibitions against preaward license negotiations related to SBIR/STTR data; and improper uses of interagency acquisitions that circumvent the DFARS prescriptive guidance on SBIR/STTR contracts.

Response: The respondent's first recommendation is related to technical evaluation factor requirements that are not related to license rights, which is beyond the scope of this rule. In response to the respondent's second recommendation, the DFARS should only include guidance or requirements for contracting officers rather than guidance that is intended for policy or regulatory decision-makers. In response to the respondent's third comment, the proposed rule includes guidance, provisions, and clauses that are intended to fully implement IP portions of the SBIR/STTR Policy Directive. However, the SBIR/STTR Policy Directive does not supersede DFARS guidance for contracting officers, provisions, and clauses. The respondent's other recommendations are already addressed in existing guidance and clauses related to postaward license negotiations regarding SBIR/STTR data in DFARS 227.7104–2(a)(2); retention of rights by the contractor in DFARS 252.227–7018(c); patent rights for small businesses in FAR 52.227–11; and interagency acquisitions in FAR subpart 17.7. For these reasons, DoD has not adopted the respondent's recommendations.

d. Liability and Reimbursement Obligations

Comment: One respondent recommended revising the ''release from liability'' section in DFARS 252.227–7018 to impose liability and reimbursement obligations for the Government related to damages caused by unauthorized disclosure of technical data or software.

Response: The Disputes clause and the Contracts Disputes statute govern claims related to breach of contract. In addition, the recommended revisions create open-ended funding obligations for reimbursement of ''all costs and reasonable attorney fees'', which are not authorized by any existing policy, statute, or regulation. For these reasons, DoD has not adopted the respondent's recommendation.

e. Potential Topic for DoD Guidance and Training

Comment: A respondent recommended that DoD develop guidance and workforce training on examples of modifications or changes to preexisting commercial and noncommercial items made in the performance of a DoD contract.

Response: Although DoD is continuously improving its guidance and training, this recommendation is outside the scope of this rule.

C. Other Changes

Because the terms ''legends'' and ''markings'' are interchangeable, the proposed rule changes all instances of ''legends'' to ''markings'' in part 227 and the associated solicitations and clauses for the sake of consistency. A minor change is also made at DFARS 212.301(f)(xii)(A) for DFARS clause 252.227–7013 to add a cross-reference to 227.7102–4(b).

IV. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

The proposed rule clarifies the following DFARS solicitation provision and contract clauses to reflect the objectives of the SBIR/STTR Policy Directive: 252.227–7013, Rights in Technical Data-Noncommercial Items; 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; 252.227–7015, Technical Data-Commercial Items; 252.227–7016, Rights in Bid or Proposal Information; 252.227–7017, Identification and Assertion of Use, Release, or Disclosure Restrictions; 252.227–7018, Rights in Noncommercial Technical Data and Computer Software-Small Business Innovation Research Program and Small Business Technology Transfer Program; and 252.227–7025, Limitation on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

DFARS clauses 252.227–7013, 252.227–7015, and 252.227–7037 will continue to apply to contracts at or below the SAT and for the acquisition of commercial items, including COTS items. In addition, DFARS 252.227–7018 will apply to contracts at or below the SAT and for the acquisition of commercial items, including COTS items.

This rule also proposes to create a new provision and a new clause: (1) DFARS 252.227–70XX, Additional Preaward Requirements for Small Business Technology Transfer Program, and (2) DFARS 252.227–70YY, Additional Postaward Requirements for Small Business Technology Transfer Program. The new provision and clause will apply to acquisitions at or below the SAT and to acquisitions of commercial items, including COTS items. Not applying this provision and clause to contracts below the SAT and for the acquisition of commercial items, including COTS items, would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule. Consequently, DoD plans to apply the rule to contracts below the SAT and for the acquisition of commercial items, including COTS items.

V. Expected Impact of the Rule

The SBIR/STTR Policy Directive updates the SBIR/STTR data protection period to a single, non-extendable 20-year period, rather than an extendable 5-year period. The proposed rule also provides the Government with perpetual GPR license rights after the expiration of the SBIR/STTR data protection period, rather than unlimited rights. In addition, the proposed rule implements STTR-unique requirements in the SBIR/STTR Policy Directive related to allocation of IP rights between partnering institutions and contractors under the STTR program. The proposed

rule removes an alternate clause for DFARS 252.227–7018, which previously allowed the Government to elect not to exercise its right to publish or authorize others to publish SBIR data. Lastly, the proposed rule updates the marking requirements in DFARS 252.227–7013, 252.227–7014, and 252.227–7018 to require an ''unlimited rights'' marking for technical data or software furnished to the Government without restrictions. The updated marking requirements permit contractors to use only the restrictive markings specified in the clause. The proposed rule also revises DFARS 252.227–7015 to indicate that restrictive markings on commercial technical data must accurately reflect the Government's license rights.

The proposed rule therefore impacts the Government's license rights in SBIR/STTR data and the contractor's marking obligations. The SBIR/STTR Policy Directive emphasizes the need to protect the IP interests of small businesses. The proposed rule provides a transparent and consistent framework that permits the Government to easily identify and resolve inadvertently omitted restrictive markings, which allows DoD to better protect the IP interests of our small-business industry partners.

VI. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VII. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VIII. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule primarily benefits small entities by emphasizing protection of small entities' intellectual property, therefore balancing any additional compliance requirements under the rule. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to amend the DFARS to implement the data-rights portions of the revised SBA Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program Policy Directive. The final combined SBA SBIR/STTR Policy Directive became effective on May 2, 2019.

The objectives of the rule are to implement the data-rights portions of the SBA SBIR/STTR Policy Directive. Accordingly, the rule provides the following:

- A single, non-extendable, 20-year SBIR/STTR data protection period, rather than the extant 5-year period that can be extended indefinitely;
- Perpetual government purpose rights (GPR) license rights after the expiration of the SBIR/STTR data protection period, rather than unlimited rights; and
- Definitions that harmonize terminology used in the Policy Directive and the Federal Acquisition Regulation (FAR) and DFARS implementations.

The rule provides a new DFARS solicitation provision and a contract clause applicable to STTR awards where no such coverage has existed. Further, the rule updates DFARS provision and clauses 252.227–7013, Rights in Technical Data—Noncommercial Item; 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; 252.227–7015, Technical Data–Commercial Items, 252.227–7016; Rights in Bid or Proposal Information; 252.227–7017, Identification and Assertion of Use, Release, or Disclosure Restrictions; 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program; 252.227–7019, Validation of Asserted Restrictions—Computer Software; and 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

The SBIR/STTR Policy Directive emphasizes the need to protect the intellectual property interests of small businesses. To achieve this goal, DoD has updated its marking requirements to resolve a long-standing gap that may negatively impact the intellectual property interests of small businesses. The proposed rule provides a transparent and consistent framework that permits the Government to easily identify and resolve inadvertently omitted restrictive markings, which allows DoD to better protect the intellectual property interests of our small-business industry partners.

The legal basis for the rule is 41 U.S.C. 1303.

This proposed rule will apply to small entities that have contracts with DoD requiring delivery of data, including technical data and computer software. Based on data from Electronic Data Access for fiscal year (FY) 2018 through FY 2020, DoD estimates that 23,771 contractors may be impacted by the changes in this proposed rule. Of those entities, approximately 15,718 (66 percent) are small entities.

This proposed rule imposes new reporting, recordkeeping, or other compliance requirements for small entities participating in the STTR program. The changes in this proposed rule add a requirement for offerors responding to solicitations under the STTR program to submit, to be eligible for award, both a written agreement and a written representation to the contracting officer for review. Further, the proposed rule requires STTR contractors to submit both an updated written agreement and an updated written representation to the contracting officer as occasioned. Based on data from SBA for FY 2018 through FY 2020, DoD estimates that an average of 302 unique small entities are awarded an average of 444 STTR contract actions on an annual basis. DoD estimates that senior employees are necessary to prepare the written agreement and written representation because of the complexity of the matter, and the written representation requires execution by an employee authorized to bind the company.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives which would accomplish the stated objectives of this proposed rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C.

610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2019–D043), in correspondence.

IX. Paperwork Reduction Act

This rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD has submitted a request for approval of a new information collection requirement concerning DFARS Case 2019–D043, Small Business Innovation Research Program Data Rights, to the Office of Management and Budget.

A. Estimated Public Reporting Burden

Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 302.

Responses per respondent: 1.5.

Total annual responses: 453.

Preparation hours per response: 20 hours.

Total response burden hours: 9,060.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be sent to Ms. Susan Minson at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email *Susan_M._Minson@omb.eop.gov,* with a copy to the Defense Acquisition Regulations System, Attn: David E. Johnson at *osd.dfars@mail.mil.* Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice. Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether DoD's estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To obtain a copy of the supporting statement and associated collection instruments, please email *osd.dfars@mail.mil.* Include DFARS Case 2019–D043 in the subject line of the message.

List of Subjects in 48 CFR Parts 212, 227, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 227, and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 227, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 212.301 by—
■ a. Revising paragraph (f)(xii)(A);
■ b. Redesignating paragraph (f)(xii)(C) as paragraph (f)(xii)(D);
■ c. Adding a new paragraph (f)(xii)(C) and paragraphs (f)(xii)(E) and (F).

The revision and additions read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(f) * * *

(xii) * * * (A) Use the clause at 252.227–7013, Rights in Technical Data-Noncommercial Items, as prescribed in 227.7102–4(b) and 227.7103–6(a). Use the clause with its Alternate I as prescribed in 227.7103–6(b)(1). Use the clause with its Alternate II as prescribed in 227.7103–6(b)(2), to comply with 10 U.S.C. 8687 and 17 U.S.C. 1301, *et seq.*

* * * * *

(C) Use the clause at 252.227–7018, Rights in Noncommercial Technical Data and Computer Software–Small Business Innovation Research Program and Small Business Technology Transfer Program, as prescribed in 227.7104–4(a)(1).

* * * * *

(E) Use the provision at 252.227–70XX, Additional Preaward Requirements for Small Business Technology Transfer Program, as prescribed in 227.7104–4(c)(1).

(F) Use the clause at 252.227–70YY, Additional Postaward Requirements for Small Business Technology Transfer Program, as prescribed in 227.7104–4(c)(2).

* * * * *

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.7103–5 [Amended]

■ 3. Amend section 227.7103–5—
■ a. In paragraph (b)(4) introductory text, by removing the words ''government'' and ''legends'' and adding ''Government'' and ''markings'' in their places, respectively;
■ b. In paragraph (b)(4)(i), by removing ''non-disclosure'' and adding ''nondisclosure'' in its place;
■ c. In paragraph (b)(4)(ii), by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;
■ d. In paragraph (b)(5), by removing ''legends'', ''252–227–7025'', and ''non-disclosure'' and adding ''markings'', ''252.227–7025'', and ''nondisclosure'' in their places, respectively;
■ e. In paragraph (b)(6), by removing ''legends'' and ''non-disclosure'' wherever it appears, and adding ''markings'' and ''nondisclosure'' in their places, respectively; and removing ''Commerce Business Daily'' and adding ''System for Award Management'' in its place; and
■ f. In paragraph (c)(4) by removing ''non-disclosure'' and ''Information Marked with Restrictive Legends'' and adding ''nondisclosure'' and ''Information with Restrictive Markings'' in their places, respectively.
■ 4. Amend section 227.7103–6—
■ a. In paragraph (a), by revising the second sentence and adding a new third sentence; and
■ b. In paragraph (c), by removing ''Information Marked with Restrictive Legends'' and ''legend(s)'' and adding ''Information with Restrictive Markings'' and ''marking(s)'' in their places, respectively.

The revision reads as follows:

227.7103–6 Contract clauses.

(a) * * * Do not use the clause when the only deliverable items are computer software or computer software documentation (see 227.72), commercial items developed exclusively at private expense (see 227.7102–4), existing works (see 227.7105), or special works (see 227.7106). When contracting under the Small Business Innovation Research (SBIR) Program or the Small Business Technology Transfer (STTR) Program, see 227.7104–4(a). * * *

* * * * *

■ 5. Amend section 227.7103–7—
■ a. By revising the section heading;
■ b. In paragraph (a) introductory text, by removing ''subsection'', ''parties'',

and ''non-disclosure'' and adding ''section'', ''parties,'', and ''nondisclosure'' in their places;

■ c. Revising paragraphs (a)(1) and (2);

■ d. In paragraph (b), by removing ''non-disclosure'' and ''Information Marked with Restrictive Legends'' and adding ''nondisclosure'' and ''Information with Restrictive Markings'' in their places, respectively;

■ e. In paragraph (c) introductory text by removing ''non-disclosure'' and adding ''nondisclosure'' in its place;

■ f. In the agreement ''Use and Non-Disclosure Agreement'', by revising the agreement title, and paragraphs (1) and (5) of the agreement and the parenthetical clause at the end of the agreement.

The revisions read as follows:

227.7103–7 Use and nondisclosure agreement.

(a) * * *

(1) The specific conditions under which an intended recipient will be authorized to use, modify, reproduce, release, perform, display, or disclose technical data subject to limited rights, or SBIR/STTR data rights, or computer software subject to restricted rights or SBIR/STTR data rights must be stipulated in an attachment to the use and nondisclosure agreement.

(2) For an intended release, disclosure, or authorized use of technical data or computer software subject to special license rights, modify paragraph (1)(d) of the use and nondisclosure agreement in paragraph (c) of this section to enter the conditions, consistent with the license requirements, governing the recipient's obligations regarding use, modification, reproduction, release, performance, display, or disclosure of the data or software.

* * * * *

Use and Nondisclosure Agreement

* * * * *

(1) The Recipient shall—

(a) Use, modify, reproduce, release, perform, display, or disclose Data marked with government purpose rights markings or SBIR/STTR data rights markings (after expiration of the SBIR/STTR data protection period provided in the SBIR/STTR data rights marking) only for government purposes and shall not do so for any commercial purpose. The Recipient shall not release, perform, display, or disclose these Data, without the express written permission of the contractor whose name appears in the restrictive marking (the ''Contractor''), to any person other than its subcontractors or suppliers, or prospective subcontractors or suppliers, who require these Data to submit offers for, or perform, contracts with the Recipient. The Recipient shall require its subcontractors or suppliers, or prospective subcontractors or suppliers, to sign a use and nondisclosure agreement prior to disclosing or releasing these Data to such persons. Such agreement must be consistent with the terms of this agreement.

(b) Use, modify, reproduce, release, perform, display, or disclose technical data marked with limited rights or SBIR/STTR data rights markings only as specified in the attachment to this Agreement. Release, performance, display, or disclosure to other persons is not authorized unless specified in the attachment to this Agreement or expressly permitted in writing by the Contractor. The Recipient shall promptly notify the Contractor of the execution of this Agreement and identify the Contractor's Data that has been or will be provided to the Recipient, the date and place the Data were or will be received, and the name and address of the Government office that has provided or will provide the Data.

(c) Use computer software marked with restricted rights or SBIR/STTR data rights markings only in performance of Contract Number *[Insert contract number(s)].* The recipient shall not, for example, enhance, decompile, disassemble, or reverse engineer the software; time share, or use a computer program with more than one computer at a time. The recipient may not release, perform, display, or disclose such software to others unless expressly permitted in writing by the licensor whose name appears in the restrictive marking. The Recipient shall promptly notify the software licensor of the execution of this Agreement and identify the software that has been or will be provided to the Recipient, the date and place the software were or will be received, and the name and address of the Government office that has provided or will provide the software.

(d) Use, modify, reproduce, release, perform, display, or disclose Data marked with special license rights markings. *[To be completed by the contracting officer. See 227.7103–7(a)(2). Omit if none of the data requested is marked with special license rights markings.]*

* * * * *

(5) The Recipient agrees to indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys' fees, court costs, and expenses arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of Data received from the Government with restrictive markings by the Recipient or any person to whom the Recipient has released or disclosed the Data.

* * * * *

(End of use and nondisclosure agreement)

227.7103–10 [Amended]

■ 6. Amend section 227.7103–10—

■ a. In paragraph (b)(2), by removing ''pre-existing'' and ''legend'' and adding ''preexisting'' and ''marking'' in their places, respectively;

■ b. In paragraph (c)(2), by removing ''legends'' and ''six months'' and adding ''markings'' and ''6 months'' in their places, respectively; and

■ c. In paragraph (c)(3), by removing ''use or disclosure'' and adding ''use or disclosure that are consistent with the proposed restrictive marking'' in its place.

227.7103–12 [Amended]

■ 7. Amend section 227.7103–12 paragraph (b)(1) by removing ''legends'' and adding ''markings'' in its place.

227.7103–15 [Amended]

■ 8. Amend section 227.7103–15—

■ a. In paragraph (c) introductory text, by removing ''non-commercial'' and adding ''noncommercial'' in its place; and

■ b. In paragraph (c)(2), by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place.

227.7103–16 [Amended]

■ 9. Amend section 227.7103–16 in paragraph (b) by removing ''non-disclosure'' and adding ''nondisclosure'' in its place.

■ 10. Revise section 227.7104. to read as follows:

227.7104 Contracts under the Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program.

■ 11. Add new sections 227.7104–1, 227.7104–2, 227.7104–3, and 227.7104–4 to read as follows:

227.7104–1 Policy.

(a) Contracting officers shall not require an offeror, either as a condition of being responsive to a solicitation or as a condition for award, to sell or otherwise relinquish to the Government any rights in technical data related to items, components, or processes developed under a SBIR/STTR contract or any rights in software generated under a SBIR/STTR contract except for

the technical data and computer software identified at 227.7104–2.

(b) Contracting officers shall not prohibit offerors and contractors from furnishing or offering to furnish items, components, or processes developed under a SBIR/STTR contract or software generated under a SBIR/STTR contract solely because the Government's rights to use, modify, release, reproduce, perform, display, or disclose technical data pertaining to those items may be restricted.

(c) In a manner consistent with the guidance in this section and acquisition preferences applicable to SBIR/STTR offerors, the Government may use information provided by offerors in response to a solicitation in the source selection process to evaluate the impact of proposed restrictions on the Government's ability to use or disclose technical data or computer software. However, contracting officers shall not prohibit offerors from offering products for which the offeror is entitled to provide the technical data or computer software with restrictions. Contracting officers also shall not require offerors, either as a condition of being responsive to a solicitation or as a condition for award, to sell or otherwise relinquish any greater rights in technical data or computer software when the offeror is entitled to provide the technical data or computer software with restrictions.

227.7104–2 Rights in SBIR or STTR data.

(a) Under the clause at 252.227–7018, Rights in Noncommercial Technical Data and Computer Software–Small Business Innovation Research Program and Small Business Technology Transfer Program, the Government obtains the following standard license rights:

(1) Unlimited rights in the technical data and computer software listed in paragraph (c)(1) of the clause.

(2) SBIR/STTR data rights in all other technical data and computer software developed or generated under the phase I, II, or III SBIR/STTR contract or subcontract and marked with the SBIR/STTR data rights marking. SBIR/STTR data rights provide the Government limited rights in such technical data and restricted rights in such computer software during the SBIR/STTR data protection period commencing on the date of contract award and ending 20 years after that date unless, subsequent to the award, the agency and the contractor negotiate for some other protection period for the SBIR/STTR data. Upon expiration of the SBIR/STTR data protection period, the Government has government purpose rights in the SBIR/STTR data. These government purpose rights do not expire. See 252.227–7018 for the definition of the SBIR/STTR data protection period and PGI 227.7104–2 for additional guidance on the SBIR/STTR data protection period.

(b) During the SBIR/STTR data protection period, the Government may not release or disclose technical data or computer software that is subject to SBIR/STTR data rights to any person except as authorized for limited rights technical data or restricted rights computer software, respectively.

(c) The Small Business Administration's SBIR and STTR Program Policy Directive (effective May 2, 2019) provides for special consideration regarding the handling (*e.g.,* disclosure, reverse engineering) of prototypes generated under SBIR and STTR awards, to avoid effects that may appear to be inconsistent with the SBIR and STTR program objectives and to allow the SBIR/STTR awardee to retain rights in SBIR/STTR data during the SBIR/STTR data protection period.

227.7104–3 STTR program requirements.

(a) Before award of a contract under the STTR program requirements only, the provision at 252.227–70XX, Additional Preaward Requirements for Small Business Technology Transfer Program, requires offerors to submit, as part of their proposal, a written agreement between the offeror and a partnering research institution that allocates any rights in intellectual property and the offeror's written representation that it is satisfied with the agreement. The contracting officer shall review the agreement to ensure it does not conflict with the requirements of the solicitation or any right to carry out follow-on research. If such conflicts exist and cannot be resolved, the submitted proposal is not eligible for award.

(b) At contract award for STTR program requirements, in accordance with the clause at 252.227–70YY, Additional Postaward Requirements for Small Business Technology Transfer Program, the contracting officer shall attach to the contract the accepted written agreement and representation provided by the contractor pursuant to the provision at 252.227–70XX.

(c) After contract award, for any modification to the written agreement between the contractor and partnering research institution, the contracting officer shall review the agreement and representation to ensure the modified agreement adheres to the requirements of 252.227–70YY. If acceptable, the contracting officer shall attach the modified agreement to the contract.

227.7104–4 Solicitation provisions and contract clauses.

(a)(1) Use the clause at 252.227–7018, Rights in Noncommercial Technical Data and Computer Software–Small Business Innovation Research Program and Small Business Technology Transfer Program, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when SBIR/STTR data are delivered, developed, or generated during contract performance, and when any portion of contract performance is governed by the SBIR or STTR program (*e.g.,* performance of one or more subcontracts qualifies as a phase III SBIR or STTR award).

(2) For the remainder of the technical data or computer software that is delivered, developed, or generated under the contract, use the following clauses as applicable, in accordance with the prescriptions for those clauses:

(i) 252.227–7013, Rights in Technical Data-Noncommercial Items.

(ii) 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.

(iii) 252.227–7015, Technical Data-Commercial Items.

(b) Use the following provision in solicitations and the following clauses in solicitations and contracts that include the clause at 252.227–7018, in accordance with the prescriptions for the provision and clauses:

(1) 252.227–7016, Rights in Bid or Proposal Information.

(2) 252.227–7017, Identification and Assertion of Use, Release, or Disclosure Restrictions.

(3) 252.227–7019, Validation of Asserted Restrictions–Computer Software.

(4) 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings.

(5) 252.227–7028, Technical Data or Computer Software Previously Delivered to the Government.

(6) 252.227–7030, Technical Data–Withholding of Payment.

(7) 252.227–7037, Validation of Restrictive Markings on Technical Data (paragraph (e) of the clause contains information that must be included in a challenge).

(c)(1) Use the provision at 252.227–70XX, Additional Preaward Requirements for Small Business Technology Transfer Program, in solicitations that contain the clause at 252.227–70YY.

(2) Use the clause at 252.227–70YY, Additional Postaward Requirements for

Small Business Technology Transfer Program, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for acquisitions under the STTR Program.

227.7108 [Amended]

■ 12. Amend section 227.7108—
■ a. In paragraph (a)(5), by removing ''non-disclosure'' and adding ''nondisclosure'' in its place; and
■ b. In paragraphs (c) and (d), by removing ''legends'' and adding ''markings'' in their places.

227.7203–5 [Amended]

■ 13. Amend section 227.7203–5—
■ a. In paragraph (b)(4) introductory text, by removing ''legends'' and adding ''markings'' in its place;
■ b. In paragraph (b)(4)(ii), by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;
■ c. In paragraph (b)(5), by removing ''legends'' and ''non-disclosure'' and adding ''markings'' and ''nondisclosure'' in their places, respectively; and
■ d. In paragraph (b)(6), by removing ''legends'' and ''non-disclosure'' wherever it appears and adding ''markings'' and ''nondisclosure'' in their places, respectively; and removing ''Commerce Business Daily'' and adding ''System for Award Management'' in its place.

227.7203–6 [Amended]

■ 14. Amend section 227.7203–6—
■ a. In the section heading, by removing ''Contract clauses'' and adding ''Solicitation provisions and contract clauses'' in its place; and
■ b. In paragraph (d), by removing ''Information Marked with Restrictive Legends'' and ''legend(s)'' and adding ''Information with Restrictive Markings'' and ''marking(s)'' in their places, respectively.

227.7203–10 [Amended]

■ 15. Amend section 227.7203–10—
■ a. In paragraph (b)(1), by removing ''legend'' and adding ''marking'' in its place; and
■ b. In paragraph (b)(2), by removing ''pre-existing'' and ''legend'' and adding ''preexisting'' and ''marking'' in their places, respectively;
■ c. In paragraph (c)(2) introductory text, by removing ''legends'' and ''six months'' and adding ''markings'' and ''6 months'' in their places, respectively; and
■ d. In paragraph (c)(3), by removing ''use or disclosure'' and adding ''use or disclosure that are consistent with the proposed restrictive marking'' in its place.

227.7203–12 [Amended]

■ 16. Amend section 227.7203–12 in paragraph (a)(1) by removing ''legend'' and adding ''marking'' in its place.

227.7203–15 [Amended]

■ 17. Amend section 227.7203–15 in paragraph (c)(3) by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 18. Amend section 252.227–7013—
■ a. By revising the section heading, introductory text, and clause date;
■ b. In paragraph (a)—
■ i. Removing the designations for paragraphs (a)(1) through (16) and placing the definitions in alphabetical order;
■ ii. In the defined term ''Covered Government support contractor''—
■ A. In the introductory text, by removing ''effort (rather than to directly furnish an end item or service to accomplish a program or effort)'' and adding ''effort, rather than to directly furnish an end item or service to accomplish a program or effort'' in its place;
■ B. By redesignating paragraphs (i) and (ii) as (1) and (2) respectively; and
■ C. In newly redesignated paragraph (2) by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;
■ iii. In the defined term ''Developed exclusively at private expense''
■ A. introductory text, by removing ''government'' and adding ''Government'' in its place, and
■ B. By redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ iv. In the defined term ''Developed exclusively with government funds'', by removing ''government'' and adding ''Government'' in its place;
■ v. By adding, in alphabetical order, the definition of ''Generated'';
■ vi. By revising the definition of ''Government purpose rights'';
■ vii. In the defined term ''Limited rights'' by—
■ A. Redesignating paragraphs (i) introductory text, (ii), and (iii) as paragraphs (1) introductory text, (2), and (3), respectively;
■ B. In the newly redesignated paragraph (1) by redesignating paragraphs (1)(A) and (B) introductory text as paragraphs (1)(i) and (ii) introductory text, respectively; and
■ C. In the newly redesignated paragraph (1)(ii) by redesignating paragraphs (1)(ii)(*1*) and (*2*) as paragraphs (1)(ii)(A) and (B), respectively;
■ viii. By adding, in alphabetical order, the definition of ''Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) data'';
■ c. By redesignating paragraphs (b) through (k) as paragraphs (c) through (l), respectively;
■ d. By adding a new paragraph (b);
■ e. In newly redesignated paragraph (c) introductory text, by removing ''the Rights in Noncommercial Computer Software and Noncommercial Software Documentation'' and adding ''the DFARS 252.227–7014, Rights in Noncommercial Computer Software Documentation,'' in its place;
■ f. In newly redesignated paragraph (c)(2)(i) introductory text, by removing ''five-year'' and adding ''5-year'' in its place;
■ g. In newly redesignated paragraph (c)(2)(i)(A), by removing ''(b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix)'' and adding ''(c)(1)(ii) and (c)(1)(iv) through (c)(1)(ix)'' in its place;
■ h. In newly redesignated paragraph (c)(2)(ii), by removing ''five-year'', wherever it appears, and ''(b)(2)(i)(B)'' and adding ''5-year'' and ''(c)(2)(i)(B)'' in their places, respectively;
■ i. In newly redesignated paragraph (c)(2)(iii)(A), by removing ''non-disclosure'' and ''227.7103–7 of the Defense Federal Acquisition Regulation Supplement (DFARS)'' and adding ''nondisclosure'' and ''DFARS 227.7103–7'' in their places, respectively;
■ j. In newly redesignated paragraph (c)(2)(iii)(B), by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;
■ k. In newly redesignated paragraph (c)(2)(iv), by removing ''legend'' and ''(f)(2)'' and adding ''marking'' and ''(g)(2)'' in their places, respectively;
■ l. In newly redesignated paragraph (c)(3)(i) introductory text, by removing ''(b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix)'' and adding ''(c)(1)(ii) and (c)(1)(iv) through (c)(1)(ix)'' in its place;
■ m. In newly redesignated paragraph (c)(3)(i)(A), by removing ''legend'' and ''(f)'' and adding ''marking'' and ''(g)'' in their places, respectively;
■ n. In newly redesignated paragraph (c)(3)(iv)(C), by removing ''legend'' and ''non-disclosure'' wherever it appears and adding ''marking'' and ''nondisclosure'' in their places, respectively;
■ o. In newly redesignated paragraph (c)(3)(iv)(D), by removing ''non-disclosure'' wherever it appears,

''252.227–7025'', and ''Information Marked with Restrictive Legends'' and adding ''nondisclosure'', ''DFARS 252.227–7025'', and ''Information with Restrictive Markings'' in their places, respectively;

■ p. In newly redesignated paragraph (c)(4), by removing ''(b)(1) through (b)(3)'' and ''in paragraph (a)(14)'' and adding ''(c)(1) through (c)(3)'' and ''in the definition of ''limited rights'' '' in their places, respectively;

■ q. In newly redesignated paragraph (c)(5) introductory text, by removing ''pre-existing'' and adding ''preexisting'' in its place;

■ r. In newly redesignated paragraph (c)(6), by removing ''paragraph (a)(14) or (b)(2)(iii)'', ''(b)(4)'', and ''legends'' and adding ''the definition of ''limited rights'' or paragraph (c)(2)(iii)'', ''(c)(4)'', and ''markings'' in their places, respectively;

■ s. In newly redesignated paragraph (e), by removing ''paragraph (b)'' and adding ''paragraph (c)'' in its place;

■ t. In newly redesignated paragraph (f)(2), by removing ''(e)(3)'' and adding ''(f)(3)'' in its place;

■ u. In newly redesignated paragraph (f)(3), by —

■ A. Adding a heading to the table; and

■ B. in note 3, by removing ''SBIR'' and adding ''SBIR/STTR'' in its place;

■ v. In paragraph (f)(4), by removing ''Validation of Restrictive Markings on Technical Data'' and adding ''DFARS 252.227–7037, Validation of Restrictive Markings on Technical Data,'' in its place;

■ w. By revising newly redesignated paragraph (g);

■ x. In newly redesignated paragraph (i)(1) and (2), by removing ''Validation of Restrictive Markings on Technical Data'' and adding ''DFARS 252.227–7037, Validation of Restrictive Markings on Technical Data,'' in its place;

■ y. In newly redesignated paragraph (k)(2), by removing ''(j)(1)'' and adding ''(k)(1)'' in its place;

■ z. By revising newly redesignated paragraph (l) heading and paragraphs (l)(1) and (2);

■ aa. By redesignating paragraphs (l)(3), (l)(4), and (l)(5) as paragraphs (l)(4), (l)(5), and (l)(6), respectively;

■ bb. By adding a new paragraph (l)(3);

■ cc. In alternate I—

■ i. By revising the clause date and in the introductory text removing ''paragraph (l)'' and adding ''paragraph (m)'' in its place;

■ ii. In newly redesignated paragraph (m)(2), by removing ''paragraph (l)'' and ''twenty-four (24)'' and adding ''paragraph (m)'' and ''24'' in their places, respectively;

■ dd. In alternate II by—

■ i. Revising the clause date and the introductory text; and

■ ii. Redesignating paragraphs (a)(17) and (b)(7) as paragraphs (a) and (c)(7), respectively.

The revisions and additions read as follows:

252.227–7013 Rights in Technical Data—Noncommercial Items.

As prescribed in 227.7102–4(b) and 227.7103–6(a), use the following clause:

Rights In Technical Data—Noncommercial Items (Date)

(a) * * *

Generated means, with regard to technical data or computer software, first created in the performance of this contract.

* * * * *

Government purpose rights means the rights to—

(1) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and

(2) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States Government purposes.

* * * * *

Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) data means all technical data or computer software developed or generated in the performance of a phase I, II, or III SBIR/STTR contract or subcontract.

* * * * *

(b) *Applicability.* (1) Except as provided in paragraph (b)(2) of this clause, this clause will govern all technical data pertaining to noncommercial items or to any portion of a commercial item that was developed in any part at Government expense, and the clause at Defense Federal Acquisition Regulation Supplement (DFARS) 252.227–7015, Technical Data—Commercial Items, will govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense.

(2) The clause at DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, will govern technical data that are SBIR/STTR data.

* * * * *

(f) * * *

(3) * * *

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data

* * * * *

(g)(1) *Marking requirements.* The Contractor, and its subcontractors or suppliers, shall apply asserted restrictions on technical data delivered under this contract only by marking such technical data. Except as provided in paragraph (g)(9) of this clause, only the following restrictive markings are authorized under this contract:

(i) The unlimited rights markings at paragraph (g)(5) of this clause.

(ii) The government purpose rights marking at paragraph (g)(6) of this clause.

(iii) The limited rights marking at paragraph (g)(7) of this clause.

(iv) The special license rights marking at paragraph (g)(8) of this clause.

(v) A notice of copyright in the format prescribed under 17 U.S.C. 401 or 402.

(2) *Other restrictive markings.* Any other restrictive markings, including markings that describe restrictions placed on third-party recipients of the technical data, are not authorized and are nonconforming markings governed by paragraph (i)(2) of this clause.

(3) *General marking instructions.* The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate restrictive marking on all technical data that qualify for such markings. The authorized restrictive markings shall be placed on the transmittal document or storage container and, for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

(4) *Omitted markings.* (i) Technical data delivered or otherwise provided under this contract without restrictive markings shall be presumed to have been delivered with unlimited rights. To the extent practicable, if the Contractor has requested permission (see paragraph (g)(4)(ii of this clause) to correct an inadvertent omission of markings, the Contracting Officer will not release or disclose the technical data pending evaluation of the request.

(ii) The Contractor may request permission to have conforming and justified restrictive markings placed on unmarked technical data at its expense. The request must be received by the Contracting Officer within 6 months following the furnishing or delivery of such technical data, or any extension of that time approved by the Contracting Officer. The Contractor shall—

(A) Identify the technical data that should have been marked;

(B) Demonstrate that the omission of the marking was inadvertent, the proposed marking is justified and conforms with the requirements for the marking of technical data contained in this clause; and

(C) Acknowledge, in writing, that the Government has no liability with respect to any disclosure, reproduction, or use of the technical data made prior to the addition of the marking or resulting from the omission of the marking.

(5) *Unlimited rights markings.* Technical data or computer software delivered or otherwise furnished to the Government with unlimited rights shall be marked as follows:

Unlimited Rights

Contract Number __________
Contractor Name __________
Contractor Address __________

The Government has unlimited rights in this technical data or computer software pursuant to DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items; DFARS 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; or DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of the above identified contract, as applicable. This marking must be included in any reproduction of this technical data, computer software, or portions thereof.

(End of marking)

(6) *Government purpose rights markings.* Data delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

Government Purpose Rights

Contract Number __________
Contractor Name __________
Contractor Address __________
Expiration Date __________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (c)(2) of the DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items, clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this marking must also reproduce the markings.

(End of marking)

(7) *Limited rights markings.* Data delivered or otherwise furnished to the Government with limited rights shall be marked as follows:

Limited Rights

Contract Number __________
Contractor Name __________
Contractor Address __________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (c)(3) of the DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items, clause contained in the above identified contract. Any reproduction of technical data or portions thereof marked with this marking must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of marking)

(8) *Special license rights markings.* (i) Data in which the Government's rights stem from a specifically negotiated license shall be marked as follows:

Special License Rights

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract Number *[Insert contract number],* License Number *[Insert license identifier].* Any reproduction of technical data or portions thereof marked with this marking must also reproduce the markings.

(End of marking)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (c)(5) of this clause).

(9) *Preexisting data markings.* If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive marking for which the data qualified under the prior contract or license. The Contractor shall follow the marking procedures in paragraph (g)(1) of this clause.

* * * * *

(l) *Subcontractors or suppliers.*

(1) The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10 U.S.C. 2321, 15 U.S.C. 638(j)(1)(B)(iii) and (v), and the identification, assertion, and delivery processes of paragraph (f) of this clause are recognized and protected.

(2) Whenever any technical data for noncommercial items, or for commercial items developed in any part at Government expense, are to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use the following clause(s) in the subcontract or other contractual instrument, including subcontracts or other contractual instruments for commercial items, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties:

(i)(A) Except as provided in paragraph (l)(2)(ii) of this clause, use this clause to govern the technical data pertaining to noncommercial items or to any portion of a commercial item that was developed in any part at Government expense.

(B) Use the clause at DFARS 252.227–7015, Technical Data—Commercial Items, to govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense.

(ii) Use the clause at DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, to govern technical data that are SBIR/STTR data.

(3) No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

* * * * *

Alternate I (Date)

* * * * *

Alternate II (Date)

As prescribed in 227.7103–6(b)(2), add the following definition of ''Vessel design'' in alphabetical order to paragraph (a) and add paragraph (c)(7) to the basic clause:

* * * * *

■ 19. Amend section 252.227–7014—
■ a. By revising the section heading, introductory text, and the clause date;
■ b. In paragraph (a)—
■ i. By removing the designations for paragraphs (a)(1) through (16) and placing the definitions in alphabetical order;
■ ii. In the defined term ''Commercial computer software'', by—
■ A. Redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively; and
■ B. In newly redesignated paragraph (4) by removing ''(a)(1)(i), (ii), or (iii) of this clause'' and adding ''(1), (2), or (3) of this definition'' in its place;
■ iii. In the defined term ''Covered Government support contractor'', by—
■ A. Redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ B. In newly redesignated paragraph (2) by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;
■ iv. In the defined term ''Developed'', by redesignating paragraphs (i), (ii), and (iii) as paragraphs (1), (2), and (3), respectively;
■ v. In the defined terms ''Developed exclusively at private expense'' and ''Government purpose rights'', by redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ vi. In the defined term ''Noncommercial computer software'', by removing ''under paragraph (a)(1) of this clause'' and adding ''under the definition of ''commercial computer software'' of this clause'' in its place;
■ vii. By revising the defined term ''Restricted rights'';
■ viii. By adding, in alphabetical order, the definition ''Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) data'';
■ c. By redesignating paragraphs (b) through (k) as paragraphs (c) through (l), respectively;
■ d. By adding a new paragraph (b);
■ e. In newly redesignated paragraph (c) introductory text, by removing ''world-wide'' and adding ''worldwide'' in its place;
■ f. In newly redesignated paragraph (c)(2)(i), by removing ''(b)(1)'' and adding ''(c)(1)'' in its place;
■ g. In newly redesignated paragraph (c)(2)(ii), by removing ''five years'' and ''five-year'' and adding ''5 years'' and ''5-year'' in their places, respectively;
■ h. In newly redesignated paragraph (c)(2)(iii)(A), by removing ''non-

disclosure'' and adding ''nondisclosure'' in its place;

■ i. In newly redesignated paragraph (c)(2)(iii)(B), by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;

■ j. In newly redesignated paragraph (c)(3)(ii), by removing ''(b)(4)'' and adding ''(c)(4)'' in its place;

■ k. In newly redesignated paragraph (c)(3)(iii)(C), by removing ''legend'' and ''non-disclosure'' wherever it appears and adding ''marking'' and ''nondisclosure'' in their places, respectively;

■ l. In newly redesignated paragraph (c)(3)(iii)(D), by removing ''non-disclosure'' wherever it appears, ''252.227–7025'', and ''Information Marked with Restrictive Legends'' and adding ''nondisclosure'', ''DFARS 252.227–7025'' and ''Information with Restrictive Markings'', in their places, respectively;

■ m. By revising paragraph (c)(4)(i);

■ n. In paragraph (c)(5) introductory text, by removing ''pre-existing'' and adding ''preexisting'' in its place;

■ o. By revising paragraph (c)(6);

■ p. In newly redesignated paragraph (e) introductory text, by removing ''(b)'' and adding ''(c)'' in its place;

■ q. In newly redesignated paragraph (f)(2), by removing ''(e)(3)'' and adding ''(f)(3)'' in its place;

■ r. By revising newly redesignated paragraph (f)(3) table;

■ s. In newly redesignated paragraph (f)(4), by removing ''Validation of Asserted Restrictions—Computer Software'' and adding ''DFARS 252.227–7019, Validation of Asserted Restrictions—Computer Software,'' in its place;

■ t. By revising newly redesignated paragraph (g);

■ u. In newly redesignated paragraph (i)(1), by removing ''Validation of Asserted Restrictions—Computer Software and the Validation of Restrictive Markings on Technical Data'' and adding ''DFARS 252.227–7019, Validation of Asserted Restrictions—Computer Software, and the DFARS 252.227–7037, Validation of Restrictive Markings on Technical Data,'' in its place;

■ v. In newly redesignated paragraph (i)(2), by removing ''Validation of Asserted Restrictions—Computer Software, or the Validation of Restrictive Markings on Technical Data'' and ''sixty (60) days'' and adding ''DFARS 252.227–7019, Validation of Asserted Restrictions—Computer Software, or the DFARS 252.227–7037, Validation of Restrictive Markings on Technical Data,'' and ''60 days'' in their places, respectively;

■ w. In newly redesignated paragraph (k)(2) introductory text, by removing ''(j)(1)'' and adding ''(k)(1)'' in its place;

■ x. In newly redesignated paragraph (l), by revising the heading and paragraph (1);

■ y. In newly redesignated paragraph (l)(3), by removing ''(e)'' and adding ''(f)'' in its place;

■ z. In alternate I—

■ i. By revising the clause date;

■ ii. In the introductory text, by removing ''(l)'' and adding ''(m)'' in its place;

■ iii. By redesignating paragraph (l) as paragraph (m);

■ iv. In newly redesignated paragraph (m)(2), by removing ''(l)'' and ''twenty-four (24) months'' and adding ''(m)'' and ''24 months'' in their places, respectively.

The revisions and additions read as follows:

252.227–7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.

As prescribed in 227.7203–6(a)(1), use the following clause:

Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Date)

(a) * * *

Restricted rights apply only to noncommercial computer software and mean the Government's rights to—

(1) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;

(2) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(3) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(4) Modify computer software provided that the Government may—

(i) Use the modified software only as provided in paragraphs (1) and (3) of this definition; and

(ii) Not release or disclose the modified software except as provided in paragraphs (2), (5), (6) and (7) of this definition;

(5) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that—

(i) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(ii) Such contractors or subcontractors are subject to the use and nondisclosure agreement at 227.7103–7 of the Defense Federal Acquisition Regulation Supplement (DFARS) or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings;

(iii) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (4) of this definition, for any other purpose; and

(iv) Such use is subject to the limitations in paragraphs (1) through (3) of this definition;

(6) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that—

(i) The intended recipient is subject to the use and nondisclosure agreement at DFARS 227.7103–7 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings;

(ii) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (4) of this definition, for any other purpose; and

(iii) Such use is subject to the limitations in paragraphs (1) through (3) of this definition; and

(7) Permit covered Government support contractors in the performance of covered Government support contracts that contain the clause at 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings, to use, modify, reproduce, perform, display, or release or disclose the computer software to a person authorized to receive restricted rights computer software, provided that—

(i) The Government shall not permit the covered Government support contractor to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (4) of this definition, for any other purpose; and

(ii) Such use is subject to the limitations in paragraphs (1) through (4) of this definition.

Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR)

data means all technical data or computer software developed or generated in the performance of a phase I, II, or III SBIR/STTR contract or subcontract.

* * * * *

(b) *Applicability.* This clause governs all noncommercial computer software or computer software documentation, except that the clause at DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, will govern any computer software or computer software documentation that is SBIR/STTR data.

(c) * * *

(4) * * *

(i) The standard license rights granted to the Government under paragraphs (c)(1) through (c)(3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated in the definition of ''restricted rights'' of this clause, or lesser rights in computer software documentation than are enumerated in the definition of ''limited rights'' of the DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items, clause of this contract.

* * * * *

(6) *Release from liability.* The Contractor agrees to release the Government from liability for any release or disclosure of computer software made in accordance with the definition of ''restricted rights'' or paragraph (c)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (c)(4) of this clause, or by others to whom the recipient has released or disclosed the software, and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor software marked with restrictive markings.

* * * * *

(f) * * *

(3) * * *

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Computer Software

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following computer software should be restricted:

Computer software to be furnished with restrictions [1]	Basis for assertion [2]	Asserted rights category [3]	Name of person asserting restrictions [4]
(LIST)	(LIST)	(LIST)	(LIST)

[1] Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose computer software.

[2] Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

[3] Enter asserted rights category (*e.g.,* restricted or government purpose rights in computer software, government purpose license rights from a prior contract, rights in SBIR/STTR data generated under another contract, or specifically negotiated licenses).

[4] Corporation, individual, or other person, as appropriate.

Date __________

Printed Name and Title __________

Signature __________

(End of identification and assertion)

* * * * *

(g)(1) *Marking requirements.* The Contractor, and its subcontractors or suppliers, shall apply asserted restrictions on computer software or computer software documentation delivered under this contract only by marking such software or documentation. Except as provided in paragraph (g)(9) of this clause, only the following restrictive markings are authorized under this contract:

(i) The unlimited rights marking at paragraph (g)(5) of this clause;

(ii) The government purpose rights marking at paragraph (g)(6) of this clause;

(iii) The restricted rights marking at paragraph (g)(7) of this clause;

(iv) The special license rights marking at paragraph (g)(8) of this clause; or

(v) A notice of copyright in the format prescribed under 17 U.S.C. 401 or 402.

(2) *Other restrictive markings.* Any other restrictive markings, including markings that describe restrictions placed on third-party recipients of the computer software or computer software documentation, are not authorized and shall be deemed nonconforming markings governed by paragraph (i)(2) of this clause.

(3) *General marking instructions.* The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate restrictive marking on all computer software that qualify for such markings. The authorized restrictive marking shall be placed on the transmitted document or software storage container and each page, or portions thereof, of printed material containing computer software for which restrictions are asserted. Computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights marking or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of computer software or any portions thereof subject to asserted restrictions, shall also reproduce the asserted restrictions.

(4) *Omitted markings.* (i) Computer software or computer software documentation delivered or otherwise provided under this contract without restrictive markings shall be presumed to have been delivered with unlimited rights. To the extent practicable, if the Contractor has requested permission (see paragraph (g)(4)(ii) of this clause) to correct an inadvertent omission of markings, the Contracting Officer will not release or disclose the software or documentation pending evaluation of the request.

(ii) The Contractor may request permission to have conforming and justified restrictive markings placed on unmarked computer software or computer software documentation at its expense. The request must be received by the Contracting Officer within 6 months following the furnishing or delivery of such software or documentation, or any extension of that time approved by the Contracting Officer. The Contractor shall—

(A) Identify the software or documentation that should have been marked;

(B) Demonstrate that the omission of the marking was inadvertent, the proposed marking is justified and conforms with the requirements for the marking of computer software or computer software documentation contained in this clause; and

(C) Acknowledge, in writing, that the Government has no liability with respect to any disclosure, reproduction, or use of the software or documentation made prior to the addition of the marking or resulting from the omission of the marking.

(5) *Unlimited rights markings.* Technical data or computer software delivered or otherwise furnished to the Government with unlimited rights shall be marked as follows:

Unlimited Rights

Contract Number __________

Contractor Name __________

Contractor Address __________

The Government has unlimited rights in these technical data or this computer software pursuant to the DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items; DFARS 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; or DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of the above identified contract, as applicable. This marking must be included in

any reproduction of these technical data, computer software, or portions thereof.

(End of marking)

(6) *Government purpose rights markings.* Computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

Government Purpose Rights

Contract Number _____________
Contractor Name _____________
Contractor Address _____________
Expiration Date _____________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (c)(2) of the DFARS 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this marking must also reproduce the markings.

(End of marking)

(7) *Restricted rights markings.* Software delivered or otherwise furnished to the Government with restricted rights shall be marked as follows:

Restricted Rights

Contract Number _____________
Contractor Name _____________
Contractor Address _____________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (c)(3) of the DFARS 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this marking must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of marking)

(8) *Special license rights markings.* (i) Computer software or computer documentation in which the Government's rights stem from a specifically negotiated license shall be marked as follows:

Special License Rights

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by Contract Number *[Insert contract number]*, License Number *[Insert license identifier]*. Any reproduction of computer software, computer software documentation, or portions thereof marked with this marking must also reproduce the markings.

(End of marking)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (c)(5) of this clause).

(9) *Preexisting markings.* If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, release, perform, display, or disclose computer software or computer software documentation and those restrictions are still applicable, the Contractor may mark such software or documentation with the appropriate restrictive marking for which the software qualified under the prior contract or license. The Contractor shall follow the marking procedures in paragraph (g)(1) of this clause.

* * * * *

(l) *Subcontractors or suppliers.*

(1)(i) Except as provided in paragraph (l)(1)(ii) of this clause, whenever any noncommercial computer software or computer software documentation is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this clause in its subcontracts or other contractual instruments, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties.

(ii) The Contractor shall use the clause at DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, to govern computer software or computer software documentation that is SBIR/STTR data.

(iii) No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's computer software or computer software documentation.

* * * * *

Alternate I (Date)

* * * * *

■ 20. Amend section 252.227–7015—
■ a. By revising the section heading and the clause date;
■ b. In paragraph (a)—
■ i. By removing the designations of paragraphs (a)(1) through (5) and placing in alphabetical order;
■ ii. In the defined term ''Covered Government support contractor'', by —
■ A. Redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ B. In newly redesignated paragraph (2) removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;
■ iii. In the defined term ''The term *item*'', by removing ''The term *item*'' and adding ''*Item*'' in its place;
■ c. By redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively;
■ d. By adding a new paragraph (b);
■ e. In newly redesignated paragraph (c)(2) introductory text, by removing ''(b)(1)'' and adding ''(c)(1)'' in its place;
■ f. In newly redesignated paragraph (c)(3)(i), by removing ''(b)(2)'' and adding ''(c)(2)'' in its place;
■ g. In newly redesignated paragraph (c)(3)(iii), by removing ''restrictive legend'', ''non-disclosure'' and ''an non-disclosure'' and adding ''restrictive marking'', ''nondisclosure'', and ''a nondisclosure'' in their places, respectively;
■ h. In newly redesignated paragraph (c)(3)(iv), by removing ''non-disclosure'' wherever it appears and ''252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends'' and adding ''nondisclosure'' and ''DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings'' in their places, respectively;
■ i. In newly redesignated paragraph (e), by adding a new sentence at the end of the paragraph;
■ j. By revising newly redesignated paragraph (f);
■ k. In Alternate I by—
■ i. Revising the clause date and the introductory text; and
■ ii. Redesignating paragraphs (a)(6) and (b)(4) as paragraphs (a) and (c)(4), respectively;

The revisions and additions read as follows:

252.227—7015 Technical Data—Commercial Items.

* * * * *

Technical Data—Commercial Items (Date)

* * * * *

(b) *Applicability.* This clause will govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense. If the commercial item was developed in any part at Government expense—

(1) The clause at Defense Federal Acquisition Regulation Supplement (DFARS) 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, will govern technical data that are generated during any portion of performance that is covered under the Small Business Innovation Research (SBIR) Program or Small Business Technology Transfer (STTR) Program; and

(2) The clause at DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items, will govern the technical data pertaining to any portion of a commercial item that was developed in any part at Government expense and is not covered under the SBIR or STTR program.

* * * * *

(e) * * * The Contractor shall ensure that restrictive markings on technical data accurately reflect the rights granted to the Government.

(f) *Subcontractors or suppliers.*

(1) The Contractor shall recognize and protect the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10

U.S.C. 2321, and 15 U.S.C. 638(j)(1)(B)(iii) and (v).

(2) Whenever any technical data related to commercial items developed in any part at private expense will be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this clause in the subcontract or other contractual instrument, including subcontracts and other contractual instruments for commercial items, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. This clause will govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense, and the Contractor shall use the following clauses to govern the technical data pertaining to any portion of a commercial item that was developed in any part at Government expense:

(i) Use the clause at DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, to govern technical data that are generated during any portion of performance that is covered under the SBIR or STTR program.

(ii) Use the clause at DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items, to govern any technical data that are not generated during any portion of performance that is covered under the SBIR or STTR program.

* * * * *

Alternate I (Date)

As prescribed in 227.7102–4(a)(2), add the following definition of ''Vessel design'' in alphabetical order to paragraph (a) and add paragraph (c)(4) to the basic clause:

■ 21. Amend section 252.227–7016 by—

■ a. Revising the section heading, introductory text, and clause date;

■ b. Revising paragraph (a); and

■ c. Revising paragraph (c)(2).

The revisions read as follows:

252.227–7016 Rights in Bid or Proposal Information.

As prescribed in 227.7103–6(e)(1), 227.7104–4(b)(1), or 227.7203–6(b), use the following clause:

Rights in Bid or Proposal Information (Date)

(a) *Definitions.* As used in this clause—

Computer software—

(1) Is defined in the 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, clause of this contract; or

(2) If this is a contract awarded under the Small Business Innovation Research Program or Small Business Technology Transfer Program, the term is defined in the 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of this contract.

Technical data—

(1) Is defined in the 252.227–7013, Rights in Technical Data—Noncommercial Items, clause of this contract; or

(2) If this is a contract awarded under the Small Business Innovation Research Program or Small Business Technology Transfer Program, the term is defined in the 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of this contract.

* * * * *

(c) * * *

(2) The Government's right to use, modify, reproduce, release, perform, display, or disclose information that is technical data or computer software required to be delivered under this contract are determined by the Defense Federal Acquisition Regulation Supplement (DFARS) 252.227–7013, Rights in Technical Data—Noncommercial Items; DFARS 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; or DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of this contract.

* * * * *

■ 22. Amend section 252.227–7017 by—

■ a. Revising the section heading, introductory text, and clause date;

■ b. Revising paragraphs (a) and (b);

■ c. Removing from paragraph (d) introductory text ''suppliers shall'' and adding ''suppliers, shall'' in its place; and

■ d. Revising the paragraph (d) table.

The revisions read as follows:

252.227–7017 Identification and Assertion of Use, Release, or Disclosure Restrictions.

As prescribed in 227.7103–3(b), 227.7104–4(b)(2), or 227.7203–3(a), use the following provision:

Identification and Assertion of Use, Release, or Disclosure Restrictions (Date)

(a) Definitions. As used in this provision—

Computer software—

(1) Is defined in the 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, clause of this solicitation; or

(2) If this solicitation contemplates a contract under the Small Business Innovation Research Program or Small Business Technology Transfer Program, the term is defined in the 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of this solicitation.

Technical data—

(1) Is defined in the 252.227–7013, Rights in Technical Data—Noncommercial Items, clause of this solicitation; or

(2) If this solicitation contemplates a contract under the Small Business Innovation Research Program or Small Business Technology Transfer Program, the term is defined in the 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of this solicitation.

(b) The identification and assertion requirements in this provision apply only to technical data, including computer software documentation, or computer software to be delivered with other than unlimited rights. For contracts to be awarded under the Small Business Innovation Research (SBIR) Program or Small Business Technology Transfer (STTR) Program), these requirements apply to SBIR/STTR data that will be generated under the resulting contract and will be delivered with SBIR/STTR data rights and to any other data that will be delivered with other than unlimited rights. Notification and identification are not required for restrictions based solely on copyright.

(d) * * *

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data or Computer Software

The Offeror asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data or computer software should be restricted:

Technical data or computer software to be furnished with restrictions [1]	Basis for assertion [2]	Asserted rights category [3]	Name of person asserting restrictions [4]
(LIST) [5]	(LIST)	(LIST)	(LIST)

[1] For technical data (other than computer software documentation) pertaining to items, components, or processes developed at private expense, identify both the deliverable technical data and each such item, component, or process. For computer software or computer software documentation identify the software or documentation.

[2] Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions. For technical data, other than computer software documentation, development refers to development of the item, component, or process to which the data pertain. The Government's rights in computer software documentation generally may not be restricted. For computer software, development refers to the software. Indicate whether development was accomplished exclusively or partially at private expense. If development was not accomplished at private expense, or for computer software documentation, enter the specific basis for asserting restrictions.

[3] Enter asserted rights category (*e.g.,* government purpose license rights from a prior contract, rights in SBIR/STTR data generated under a contract resulting from this solicitation or under another contract, limited, restricted, or government purpose rights under a contract resulting from this solicitation or under a prior contract, or specially negotiated licenses).

[4] Corporation, individual, or other person, as appropriate.

[5] Enter ''none'' when all data or software will be submitted without restrictions.

Date ________________

Printed Name and Title ________________

Signature ________________

(End of identification and assertion)

* * * * *

■ 23. Amend section 252.227–7018—

■ a. By revising the section heading, introductory text, clause title, and date;

■ b. In paragraph (a)—

■ i. By removing designations for paragraphs (a)(1) through (16) and placing in alphabetical order;

■ ii. In the defined term ''Commercial computer software'', by:

■ A. Redesignating paragraphs (i) through (iv) as paragraphs (1) and (4), respectively; and

■ B. In newly redesignated paragraph (4) by removing ''(a)(1)(i) or (iii) of this clause'' and adding ''(1), (2), or (3) of this definition'' in its place;

■ iii. In the defined term ''Covered Government support contractor'', by:

■ A. Redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and

■ B. In newly redesignated paragraph (2) by removing ''Information Marked with Restrictive Legends'' and adding ''Information with Restrictive Markings'' in its place;

■ iv. In the defined term ''Developed'', by redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively;

■ v. In the defined term ''Developed exclusively at private expense'', by redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;

■ vi. Adding, in alphabetical order, the definition of ''Government purpose rights'';

■ vii. In the defined term ''limited rights'', by:

■ A. Redesignating paragraphs (i) through (iii) as paragraphs (1) through (3), respectively;

■ B. In newly redesignated paragraph (1) by redesignating paragraphs (1)(A) and (B) as paragraphs (1)(i) and (ii), respectively;

■ C. In newly redesignated paragraph (1)(ii) by redesignating paragraphs (1)(ii)(*1*) and (*2*) as paragraphs (1)(ii)(A) and (B), respectively;

■ viii. In the defined term ''Noncommercial computer software'', by removing ''paragraph (a)(1) of this clause'' and adding ''the ''commercial computer software'' definition of this clause'' in its place;

■ ix. By revising the defined term ''Restricted rights'';

■ x. By adding, in alphabetical order, definitions for ''Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) data'' and ''SBIR/STTR data protection period'';

■ xi. By removing the defined term ''SBIR data rights'' and adding, in alphabetical order, the definition of ''SBIR/STTR data rights'';

■ c. By redesignating paragraphs (b) through (k) as paragraphs (c) through (l), respectively;

■ d. By adding a new paragraph (b);

■ e. In newly redesignated paragraph (c) introductory text, by removing ''world-wide'' and adding ''worldwide'' in its place;

■ f. In newly redesignated paragraph (c)(1), by removing ''data, including computer software documentation, or computer software generated under this contract'' and adding ''data or computer software, including such data generated under this contract,'' in its place;

■ g. In newly redesignated paragraph (c)(1)(iv), by removing ''use, release'' and adding ''use, release,'' in its place.

■ h. By revising newly redesignated paragraph (c)(1)(v);

■ i. By redesignating newly redesignated paragraph (c)(1)(vi) as paragraph (c)(1)(vii);

■ j. By adding a new paragraph (c)(1)(vi);

■ k. By revising newly redesignated paragraph (c)(1)(vii);

■ l. By redesignating newly redesignated paragraphs (c)(2) through (8) as paragraphs (c)(3) through (9), respectively;

■ m. By adding a new paragraph (c)(2);

■ n. In newly redesignated paragraph (c)(3), by removing ''(f)(1)'', ''legend'', and ''(f)(2)'' and adding ''(g)(1)'', ''restrictive marking'', and ''(g)(3)'' in their places, respectively;

■ o. By revising newly redesignated paragraphs (c)(5) and (c)(6);

■ p. In newly redesignated paragraph (c)(7) introductory text, by removing ''pre-existing'' and adding ''preexisting'' in its place;

■ q. By revising newly redesignated paragraph (c)(8);

■ r. In newly redesignated paragraph (c)(9)(iii), by removing ''non-disclosure'', ''legend'', and ''an non-disclosure'' and adding ''nondisclosure'', ''marking'', and ''a nondisclosure'' in their places, respectively;

■ s. In newly redesignated paragraph (c)(9)(iv), by removing ''non-disclosure'' wherever it appears, ''252.227–7025'', and ''Information Marked with Restrictive Legends'' and adding ''nondisclosure'', ''DFARS 252.227–7025'', and ''Information with Restrictive Markings'' in their places, respectively;

■ t. In newly redesignated paragraph (e) introductory text, by removing ''(b)'' and adding ''(c)'' in its place;

■ u. In newly redesignated paragraph (f)(2), by removing ''(e)(3)'' and adding ''(f)(3)'' in its place;

■ v. By revising the paragraph (f)(3) table;

■ w. In newly redesignated paragraph (f)(4), by removing ''Validation of Asserted Restrictions—Computer Software and/or Validation of Restrictive Markings on Technical Data'' and adding ''DFARS 252.227–7019, Validation of Asserted Restrictions—Computer Software, and/or DFARS 252.227–7037, Validation of Restrictive Markings on Technical Data,'' in its place;

■ x. By revising paragraph (g);

■ y. In newly redesignated paragraph (i)(1), by removing ''Validation of Restrictive Markings on Technical Data and the Validation of Asserted Restrictions—Computer Software'' and adding ''DFARS 252.227–7037, Validation of Restrictive Markings on Technical Data, and the DFARS 252.227–7019, Validation of Asserted Restrictions—Computer Software,'' in its place;

■ z. In newly redesignated paragraph (i)(2), by removing ''Validation of Restrictive Markings on Technical Data or the Validation of Asserted Restrictions—Computer Software'' and ''(sixty (6)) days'' and adding ''DFARS 252.227–7037, Validation of Restrictive Markings on Technical Data, or the DFARS 252.227–7019, Validation of Asserted Restrictions—Computer Software,'' and ''60 days'' in their places, respectively;

■ aa. In newly redesignated paragraph (k)(2), by removing ''(j)(1)'' and adding ''(k)(1)'' in its place;

■ bb. In newly redesignated paragraph (l), by revising the heading and paragraphs (l)(1) and (2); and

■ cc. By removing Alternate I.

The revisions and additions read as follows:

252.227–7018 Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program.

As prescribed in 227.7104–4(a), use the following clause:

Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technlogy Transfer Program (Date)

(a) * * *

Government purpose rights means the rights to—

(1) Use, modify, reproduce, release, perform, display, or disclose technical data or computer software within the Government without restriction; and

(2) Release or disclose technical data or computer software outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States Government purposes.

* * * * *

Restricted rights apply only to noncommercial computer software and mean the Government's rights to—

(1) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;

(2) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(3) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(4) Modify computer software provided that the Government may—

(i) Use the modified software only as provided in paragraphs (1) and (3) of this definition; and

(ii) Not release or disclose the modified software except as provided in paragraphs (2), (5), (6), and (7) of this definition;

(5) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that—

(i) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(ii) Such contractors or subcontractors are subject to the nondisclosure agreement at 227.7103–7 of the Defense Federal Acquisition Regulation Supplement or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings;

(iii) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (4) of this definition, for any other purpose; and

(iv) Such use is subject to the limitations in paragraphs (1) through (3) of this definition;

(6) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that—

(i) The intended recipient is subject to the nondisclosure agreement at 227.7103–7 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at 252.227–7025, Limitations on the Use or Disclosure of Government Furnished Information with Restrictive Markings;

(ii) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (4) of this definition, for any other purpose; and

(iii) Such use is subject to the limitations in paragraphs (1) through (3) of this definition; and

(7) Permit covered Government support contractors in the performance of Government contracts that contain the clause at 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings, to use, modify, reproduce, perform, display, or release or disclose the computer software to a person authorized to receive restricted rights computer software, provided that—

(i) The Government shall not permit the covered Government support contractor to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (4) of this definition, for any other purpose; and

(ii) Such use is subject to the limitations in paragraphs (1) through (4) of this definition.

Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) data means all technical data or computer software developed or generated in the performance of a phase I, II, or III SBIR/STTR contract or subcontract.

SBIR/STTR data protection period means the period of time during which the Government is obligated to protect SBIR/STTR data against unauthorized use and disclosure in accordance with SBIR/STTR data rights. The SBIR/STTR data protection period begins on the date of award of the contract under which the SBIR/STTR data are developed or generated and ends 20 years after that date unless, subsequent to the award, the agency and the Contractor negotiate for some other protection period for the SBIR/STTR data developed or generated under that contract.

SBIR/STTR data rights means the Government's rights, during the SBIR/STTR data protection period, in SBIR/STTR data covered by paragraph (c)(5) of this clause, as follows:

(1) Limited rights in such SBIR/STTR technical data; and

(2) Restricted rights in such SBIR/STTR computer software.

* * * * *

(b) *Applicability.* This clause will govern all SBIR/STTR data. For any data that are not SBIR/STTR data—

(1) The Defense Federal Acquisition Regulation Supplement (DFARS) clause at 252.227–7013, Rights in Technical Data—Noncommercial Items, will govern the technical data pertaining to noncommercial items or to any portion of a commercial item that was developed in any part at Government expense, and the DFARS clause at 252.227–7015, Technical Data—Commercial Items, will govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense;

(2) The DFARS clause at 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, will govern noncommercial computer software and computer software documentation; and

(3) A license consistent with DFARS 227.7202 will govern commercial computer software and commercial computer software documentation.

* * * * *

(c) * * *

(1) * * *

(v) Technical data or computer software in which the Government has acquired previously unlimited rights under another Government contract or as a result of negotiations;

(vi) Technical data or computer software furnished to the Government, under this or any other Government contract or subcontract thereunder, with license rights for which all restrictive conditions on the Government have expired; and

(vii) Computer software documentation generated or required to be delivered under this contract.

(2) *Government purpose rights.* (i) The Government shall have government purpose rights for the period specified in paragraph (c)(2)(ii) of this clause in data that are—

(A) Not SBIR/STTR data, and are—

(*1*) Technical data pertaining to items, components, or processes developed with mixed funding, or are computer software developed with mixed funding, except when

the Government is entitled to unlimited rights in such data as provided in paragraph (c)(1) of this clause;

(*2*) Created with mixed funding in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes; or

(B) SBIR/STTR data, upon expiration of the SBIR/STTR data protection period.

(ii)(A) For the non-SBIR/STTR data described in paragraph (c)(2)(i)(A) of this clause, the Government shall have government purpose rights for a period of 5 years, or such other period as may be negotiated. This period shall commence upon award of the contract, subcontract, letter contract (or similar contractual instrument), or contract modification (including a modification to exercise an option) that required development of the items, components, or processes, or creation of the data described in paragraph (c)(2)(i)(A)(*2*) of this clause. Upon expiration of the 5-year or other negotiated period, the Government shall have unlimited rights in the data.

(B) For the SBIR/STTR data described in paragraph (c)(2)(i)(B) of this clause, the Government shall have government purpose rights perpetually or for such other period as may be negotiated. This Government purpose rights period commences upon the expiration of the SBIR/STTR data protection period. Upon expiration of any such negotiated government purpose rights period, the Government shall have unlimited rights in the data.

(iii) The Government shall not release or disclose data in which it has government purpose rights unless—

(A) Prior to release or disclosure, the intended recipient is subject to the nondisclosure agreement at DFARS 227.7103–7; or

(B) The recipient is a Government contractor receiving access to the data for performance of a Government contract that contains the clause at DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings.

(iv) The Contractor has the exclusive right, including the right to license others, to use technical data in which the Government has obtained government purpose rights under this contract for any commercial purpose during the time period specified in the government purpose rights marking prescribed in paragraph (g)(2) of this clause.

* * * * *

(5) *SBIR/STTR data rights.* Except for technical data, including computer software documentation, or computer software in which the Government has unlimited rights under paragraph (c)(1) of this clause, the Government shall have SBIR/STTR data rights, during the SBIR/STTR data protection period of this contract, in all SBIR/STTR data developed or generated under this contract. This protection period is not extended by any subsequent SBIR/STTR contracts under which any portion of that SBIR/STTR data is used or delivered. The SBIR/STTR data protection period of any such subsequent SBIR/STTR contract applies only to the SBIR/STTR data that are developed or generated under that subsequent contract. The SBIR/STTR data protection period is governed by the version of this clause that is incorporated in the contract under which the SBIR/STTR data are developed or generated. If the SBIR/STTR data were developed or generated under a contract that included a previous version of this clause, then the SBIR/STTR data protection period is governed by that previous version of this clause.

(6) *Specifically negotiated license rights.* The standard license rights granted to the Government under paragraphs (c)(1) through (c)(5) of this clause may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in technical data, including computer software documentation, than are enumerated in the definition of ''limited rights'' of this clause or lesser rights in computer software than are the definition of ''restricted rights'' of this clause. Any rights so negotiated shall be identified in a license agreement made part of this contract.

* * * * *

(8) *Release from liability.* The Contractor agrees to release the Government from liability for any release or disclosure of technical data, computer software, or computer software documentation made in accordance with the definitions of ''Government purpose,'' ''noncommercial computer software,'' or paragraph (c)(5) of this clause, or in accordance with the terms of a license negotiated under paragraph (c)(6) of this clause, or by others to whom the recipient has released or disclosed the data, software, or documentation and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data or software marked with restrictive markings.

* * * * *

(f) * * *

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data or Computer Software

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data or computer software should be restricted:

Technical data or Computer software to be furnished with restrictions [1]	Basis for assertion [2]	Asserted Rights category [3]	Name of person asserting restrictions [4]
(LIST) [5]	(LIST)	(LIST)	(LIST)

[1] If the assertion is applicable to items, components, or processes developed at private expense, identify both the technical data and each such item, component, or process.

[2] Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose technical data or computer software. Indicate whether development was accomplished exclusively or partially at private expense. If development was not at private expense enter the specific reason for asserting that the Government's rights should be restricted.

[3] Enter asserted rights category (*e.g.,* limited rights, restricted rights, government purpose rights, or government purpose license rights from a prior contract, SBIR/STTR data rights under this or another contract, or specifically negotiated licenses).

[4] Corporation, individual, or other person, as appropriate.

Date ____________________
Printed Name and Title ____________________
Signature ____________________

(End of identification and assertion)

* * * * *

(g)(1) *Marking requirements.* The Contractor, and its subcontractors or suppliers, shall apply asserted restrictions on technical data or computer software delivered under this contract only by marking such technical data or software. Except as provided in paragraph (g)(11) of this clause, only the following restrictive markings are authorized under this contract:

(i) The unlimited rights marking at paragraph (g)(5) of this clause.

(ii) The government purpose rights marking at paragraph (g)(6) of this clause.

(iii) The limited rights marking at paragraph (g)(7) of this clause.

(iv) The restricted rights marking at paragraph (g)(8) of this clause.

(v) The SBIR/STTR data rights marking at paragraph (g)(9) of this clause.

(vi) The special license rights marking at paragraph (g)(10) of this clause.

(vii) A notice of copyright in the format prescribed under 17 U.S.C. 401 or 402.

(2) *Other restrictive makings.* Any other restrictive markings, including markings that describe restrictions placed on third-party recipients of the technical data or computer software, are not authorized and shall be deemed nonconforming markings governed by paragraph (i)(2) of this clause.

(3) *General marking instructions.* The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate restrictive marking to all technical data and computer software that qualify for such markings. The authorized restrictive markings shall be placed on the

transmittal document or storage container and, for printed material, each page of the printed material containing technical data or computer software for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data or computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights marking or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of technical data, computer software, or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

(4) *Omitted markings.* (i) Technical data, computer software, or computer software documentation delivered or otherwise provided under this contract without restrictive markings shall be presumed to have been delivered with unlimited rights. To the extent practicable, if the Contractor has requested permission (see paragraph (g)(4)(ii) of this clause) to correct an inadvertent omission of markings, the Contracting Officer will not release or disclose the technical data, software, or documentation pending evaluation of the request.

(ii) The Contractor may request permission to have conforming and justified restrictive markings placed on unmarked technical data, computer software, or computer software documentation at its expense. The request must be received by the Contracting Officer within 6 months following the furnishing or delivery of such technical data, software, or documentation, or any extension of that time approved by the Contracting Officer. The Contractor shall—

(A) Identify the technical data, software, or documentation that should have been marked;

(B) Demonstrate that the omission of the marking was inadvertent, the proposed marking is justified and conforms with the requirements for the marking of technical data, computer software, or computer software documentation contained in this clause; and

(C) Acknowledge, in writing, that the Government has no liability with respect to any disclosure, reproduction, or use of the technical data, software, or documentation made prior to the addition of the marking or resulting from the omission of the marking.

(5) *Unlimited rights markings.* Technical data or computer software delivered or otherwise furnished to the Government with unlimited rights shall be marked as follows:

Unlimited Rights

Contract Number ________________
Contractor Name ________________
Contractor Address ________________

The Government has unlimited rights in these technical data or this computer software pursuant to DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items; DFARS 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; or DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause of the above identified contract, as applicable. This marking must be included in any reproduction of these technical data, computer software, or portions thereof. (End of marking)

(6) *Government purpose rights markings.* Technical data or computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

Government Purpose Rights

Contract Number ________________
Contractor Name ________________
Contractor Address ________________
Expiration Date ________________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data or computer software are restricted by paragraph (c)(2) of the DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or computer software or portions thereof marked with this restrictive marking must also reproduce the markings.

(End of marking)

(7) *Limited rights markings.* Technical data not generated under this contract that pertain to items, components, or processes developed exclusively at private expense and delivered or otherwise furnished with limited rights shall be marked as follows:

Limited Rights

Contract Number ________________
Contractor Name ________________
Contractor Address ________________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (c)(3) of the DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause contained in the above identified contract. Any reproduction of technical data or portions thereof marked with this restrictive marking must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of marking)

(8) *Restricted rights markings.* Computer software delivered or otherwise furnished to the Government with restricted rights shall be marked as follows:

Restricted Rights

Contract Number ________________
Contractor Name ________________
Contractor Address ________________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (c)(4) of the DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this restrictive marking must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of marking)

(9) *SBIR/STTR data rights markings.* Except for technical data or computer software in which the Government has acquired unlimited rights under paragraph (c)(1) of this clause or negotiated special license rights as provided in paragraph (c)(6) of this clause, technical data or computer software generated under this contract shall be marked as follows. The Contractor shall enter the expiration date for the SBIR/STTR data protection period on the marking:

SBIR/STTR Data Rights

Contract Number ________________
Contractor Name ________________
Contractor Address ________________
Expiration of SBIR/STTR Data Protection Period ________________
Expiration of the Government Purpose Rights Period ________________

The Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data or computer software marked with this restrictive marking are restricted during the period shown as provided in paragraph (c)(5) of the DFARS 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program, clause contained in the above identified contract. After the SBIR/STTR data protection period expiration date shown above, the Government has perpetual government purpose rights as provided in paragraph (c)(4) of that clause, unless otherwise indicated by the government purpose rights expiration date shown above. Any reproduction of technical data, computer software, or portions thereof marked with this restrictive marking must also reproduce the markings.

(End of marking)

(10) *Special license rights markings.*

(i) Technical data or computer software in which the Government's rights stem from a specifically negotiated license shall be marked as follows:

Special License Rights

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this technical data or computer software are restricted by Contract Number *[Insert contract number],* License Number *[Insert license identifier].* Any reproduction of technical data, computer software, or portions thereof marked with this restrictive marking must also reproduce the markings.

(End of marking)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (c)(7) of this clause).

(11) *Preexisting data markings.* If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data or computer software, and those restrictions are still applicable, the Contractor may mark such data or software with the appropriate restrictive marking for which the data or software qualified under the prior contract or license. The Contractor shall follow the marking procedures in paragraph (g)(1) of this clause.

* * * * *

(l) *Subcontractors or suppliers.* (1) The Contractor shall assure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10 U.S.C. 2321, 15 U.S.C. 638(j)(1)(B)(iii) and (v), and the identification, assertion, and delivery processes required by paragraph (f) of this clause are recognized and protected.

(2) Whenever any technical data or computer software is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use the following clause(s) in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties:

(i) Except as provided in paragraph (l)(2)(ii) of this clause, use this clause to govern SBIR/STTR data.

(ii) For data that are not SBIR/STTR data—

(A) Use the DFARS clause at 252.227–7013, Rights in Technical Data—Noncommercial Items, to govern the technical data pertaining to noncommercial items or to any portion of a commercial item that was developed in any part at Government expense, and use the DFARS clause at 252.227–7015, Technical Data—Commercial Items, to govern the technical data pertaining to any portion of a commercial item that was developed exclusively at private expense;

(B) Use the DFARS clause at 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, to govern noncommercial computer software and computer software documentation; and

(C) Use the license under which the data are customarily provided to the public, in accordance with DFARS 227.7202, for commercial computer software and commercial computer software documentation.

(iii) No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data or computer software.

* * * * *

■ 24. Amend section 252.227–7019—

■ a. By revising the section heading, introductory text, and clause date;

■ b. By revising paragraph (a);

■ c. In paragraph (d)(2)(i)(B) by removing ''sixty (60) days'' and the period at the end of the paragraph and adding ''60 days'' and a semicolon in their places, respectively;

■ d. In paragraph (e)(1) by removing ''three years'' wherever it appears and adding ''3 years'' in its place;

■ e. In paragraph (f)(1)(ii) by removing ''sixty (60) days'' and adding ''60 days'' in its place;

■ f. In paragraph (f)(1)(iv) by removing ''three-year'' and adding ''3-year'' in its place;

■ g. In paragraph (f)(7) by removing ''provides the contractor'' and adding ''provides the Contractor'' in its place;

■ h. In paragraph (g)(1)(i), by removing ''ninety (90) days'' and adding ''90 days'' in its place;

■ i. In paragraph (g)(1)(ii), by removing ''one year'' and ''ninety (90) days'' and adding ''1 year'' and ''90 days'' in their places, respectively;

■ j. Revising paragraph (g)(1)(iii);

■ k. In paragraphs (g)(2)(i) and (ii), by removing ''ninety (90) days'' and adding ''90 days'' in its place;

■ l. In paragraph (g)(2)(iii), by removing ''one year'' and ''ninety (90) days'' and adding ''1 year'' and ''90 days'' in their places, respectively; and

■ m. Revising paragraph (g)(3).

The revisions read as follows:

252.227–7019 Validation of Asserted Restrictions—Computer Software.

As prescribed in 227.7104–4(b)(3) or 227.7203–6(c), use the following clause:

Validation of Asserted Restrictions—Computer Software (Date)

(a) *Definitions.* As used in this clause—

Contractor, unless otherwise specifically indicated, means the Contractor and its subcontractors or suppliers.

Other terms used in this clause are defined in the 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, clause of this contract.

* * * * *

(g) * * *

(1) * * *

(iii) Until final disposition by the appropriate Board of Contract Appeals or court of competent jurisdiction, if the Contractor has—

(A) Appealed to the Board of Contract Appeals or filed suit in an appropriate court within 90 days; or

(B) Submitted, within 90 days, a notice of intent to file suit in an appropriate court and filed suit within 1 year.

* * * * *

(3)(i) The agency head, on a nondelegable basis, may determine that urgent or compelling circumstances do not permit awaiting the filing of suit in an appropriate court, or the rendering of a decision by a court of competent jurisdiction or Board of Contract Appeals. In that event, the agency head shall notify the Contractor of the urgent or compelling circumstances. Notwithstanding paragraph (g)(1) of this clause, the Contractor agrees that the agency may use, modify, reproduce, release, perform, display, or disclose computer software marked with—

(A) Government purpose markings for any purpose, and authorize others to do so; or

(B) Restricted or special license rights for government purposes only.

(ii) The Government agrees not to release or disclose such software unless, prior to release or disclosure, the intended recipient is subject to the use and nondisclosure agreement at DFARS 227.7103–7, or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings. The agency head's determination may be made at any time after the date of the Contracting Officer's final decision and shall not affect the Contractor's right to damages against the United States, or other relief provided by law, if its asserted restrictions are ultimately upheld.

* * * * *

■ 25. Amend section 252.227–7025—

■ a. By revising the section heading, introductory text, and clause date;

■ b. By adding paragraph (a) introductory text and revising paragraph (a)(3);

■ c. By revising paragraph (b)(1) heading, paragraphs (b)(1)(i), (b)(2), (3) and (4);

■ d. In paragraph (b)(5) introductory text, by removing ''legends'' and adding ''markings'' in its place;

■ e. In paragraph (b)(5)(iii), by removing ''legend'' and ''thirty (30) days'' and adding ''marking'' and ''30 days'' in their places, respectively;

■ f. In paragraph (b)(5)(iv), by removing ''non-disclosure'' wherever it appears and ''legend'' and adding ''nondisclosure'' and ''marking'' in their places, respectively;

■ g. In paragraph (b)(5)(v)(B), by removing ''legend'' and adding ''marking'' in its place;

■ h. In paragraph (c)(1), by removing ''legends'' and adding ''markings'' in its place'';

■ i. In paragraph (c)(2), by removing ''legend'' and ''legends'' and adding ''marking'' and ''markings'' in their places, respectively; and

■ j. In paragraph (d), by removing ''non-disclosure'' and adding ''nondisclosure'' in its place; and

■ k. By adding ''(End of clause)'' at the end of the clause.

The revisions and addition read as follows:

252.227–7025 Limitations on the Use or Disclosure of Government-Furnished Information with Restrictive Markings.

As prescribed in 227.7103–6(c), 227.7104–4(b)(4), or 227.7203–6(d), use the following clause:

Limitations on the Use or Disclosure of Government-Furnished Information With Restrictive Markings (Date)

(a) *Definitions.* As used in this clause—

* * * * *

(3) For Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program contracts, the terms ''covered Government support contractor,'' ''government purpose rights,'' ''limited rights,'' ''restricted rights,'' and ''SBIR/STTR data rights'' are defined in the clause at 252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program.

(b) * * *

(1) *GFI marked with limited rights, restricted rights, or SBIR/STTR data rights markings.* (i) The Contractor shall use, modify, reproduce, perform, or display technical data received from the Government with limited rights markings, computer software received with restricted rights markings, or SBIR/STTR technical data or computer software received with SBIR/STTR data rights markings (during the SBIR/STTR data protection period) only in the performance of this contract. The Contractor shall not, without the express written permission of the party whose name appears in the marking, release or disclose such data or software to any unauthorized person.

* * * * *

(2) *GFI marked with government purpose rights markings.* The Contractor shall use technical data or computer software received from the Government with government purpose rights markings for government purposes only. The Contractor shall not, without the express written permission of the party whose name appears in the restrictive marking, use, modify, reproduce, release, perform, or display such data or software for any commercial purpose or disclose such data or software to a person other than its subcontractors, suppliers, or prospective subcontractors or suppliers, who require the data or software to submit offers for, or perform, contracts under this contract. Prior to disclosing the data or software, the Contractor shall require the persons to whom disclosure will be made to complete and sign the nondisclosure agreement at 227.7103–7 of the Defense Federal Acquisition Regulation Supplement (DFARS).

(3) *GFI marked with specially negotiated license rights markings.* (i) The Contractor shall use, modify, reproduce, release, perform, or display technical data or computer software received from the Government with specially negotiated license markings only as permitted in the license. Such data or software may not be released or disclosed to other persons unless permitted by the license and, prior to release or disclosure, the intended recipient has completed the nondisclosure agreement at DFARS 227.7103–7. The Contractor shall modify paragraph (1)(c) of the nondisclosure agreement to reflect the recipient's obligations regarding use, modification, reproduction, release, performance, display, and disclosure of the data or software.

* * * * *

(4) *GFI technical data marked with commercial restrictive markings.* (i) The Contractor shall use, modify, reproduce, perform, or display technical data that are or pertain to a commercial item and are received from the Government with a commercial restrictive marking (*i.e.,* marked to indicate that such data are subject to use, modification, reproduction, release, performance, display, or disclosure restrictions) only in the performance of this contract. The Contractor shall not, without the express written permission of the party whose name appears in the marking, use the technical data to manufacture additional quantities of the commercial items, or release or disclose such data to any unauthorized person.

* * * * *

(End of clause)

■ 26. Revise section 252.227–7028 heading and introductory text to read as follows:

252.227–7028 Technical Data or Computer Software Previously Delivered to the Government.

As prescribed in 227.7103–6(d), 227.7104–4(b)(5), or 227.7203–6(e), use the following provision:

* * * * *

■ 27. Revise section 252.227–7030 heading and introductory text to read as follows:

252.227–7030 Technical Data—Withholding of Payment.

As prescribed at 227.7103–6(e)(2) or 227.7104–4(b)(6), use the following clause:

* * * * *

252.227–7037 [Amended]

■ 28. Amend section 252.227–7037 introductory text by removing '',227.7104(c)(5)'' and adding '', 227.7104–4(b)(7)'' in its place.

■ 29. Add new sections 252.227–70XX and 252.227–70YY to read as follows:

252.227–70XX Additional Preaward Requirements for Small Business Technology Transfer Program.

As prescribed in 227.7104–4(c)(1), use the following provision:

Additional Preaward Requirements for Small Business Technology Transfer Program (Date)

(a) *Definitions.* As used in this provision, the terms *research institution* and *United States* have the meaning given in the 252.227–70YY, Additional Postaward Requirements for Small Business Technology Transfer Program, clause of this solicitation.

(b) Offers submitted in response to this solicitation shall include the following:

(1) The written agreement between the Offeror and a partnering research institution, which shall contain—

(i) A specific allocation of ownership, rights, and responsibilities for intellectual property (including inventions, patents, technical data, and computer software) resulting from the Small Business Technology Transfer (STTR) Program award;

(ii) Identification of which party to the written agreement may obtain United States or foreign patents or otherwise protect any inventions that result from a STTR award; and

(iii) No provisions that conflict with the requirements of this solicitation, including the rights of the United States and the Offeror regarding intellectual property, and regarding any right to carry out follow-on research.

(2) The Offeror's written representation that—

(i) The Offeror is satisfied with its written agreement with the partnering research institution; and

(ii) The written agreement does not conflict with the requirements of this solicitation.

(c) The Offeror shall submit the written representation required by paragraph (b)(2) of this provision as an attachment to its offer, dated and signed by an official authorized to contractually obligate the Offeror.

(d) The Offeror's failure to submit the written agreement or written representation required by paragraph (b) of this provision with its offer may render the offer ineligible for award.

(e) If the Offeror is awarded a contract, the Contracting Officer will include the written agreement and written representation required by paragraph (b) of this provision in an attachment to that contract.

(End of provision)

252.227–70YY Additional Postaward Requirements for Small Business Technology Transfer Program.

As prescribed in 227.7104–4(c)(2), use the following clause:

Additional Postaward Requirements for Small Business Technology Transfer Program (Date)

(a) *Definitions.* As used in this clause—

Research institution means an institution or entity that—

(1) Has a place of business located in the United States;

(2) Operates primarily within the United States or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor; and

(3) Is either—

(i) A nonprofit institution that is owned and operated exclusively for scientific or

educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual (section 4(3) of the Stevenson-Wydler Technology Innovation Act of 1980); or

(ii) A Federally-funded research or research and development center as identified by the National Science Foundation (*https://www.nsf.gov/statistics/ffrdclist/*) in accordance with the Federal Acquisition Regulation (FAR).

United States means the 50 States and the District of Columbia, the territories and possessions of the Government, the Commonwealth of Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(b) *Preaward submissions.* Attached to this contract are the following documents, submitted by the Contractor pursuant to Defense Federal Acquisition Regulation Supplement 252.227–70XX, Additional Preaward Requirements for Small Business Technology Transfer Program:

(1) The written agreement between the Contractor and a partnering research institution.

(2) The Contractor's written representation that it is satisfied with that written agreement, which does not conflict with the requirements of this contract.

(c) *Postaward updates.* The Contractor shall not allow any modification to its written agreement with the partnering research institution, unless the written agreement, as modified, contains—

(1) A specific allocation of ownership, rights, and responsibilities for intellectual property (including inventions, patents, technical data, and computer software) resulting from performance of this contract;

(2) Identification of which party to the written agreement may obtain United States or foreign patents or otherwise protect any inventions that result from a Small Business Technology Transfer Program award;

(3) The Contractor's written, dated, and signed representation that—

(i) The Contractor is satisfied with its written agreement with the partnering research institution, as modified; and

(ii) The written agreement, as modified, does not conflict with the requirements of this contract; and

(4) No provisions that conflict with the requirements of this contract, including the rights of the United States and the Contractor regarding intellectual property, and regarding any right to carry out follow-on research.

(d) *Submission of updated agreement.* Within 30 days of execution of the modified written agreement described in paragraph (b)(1) of this clause, the Contractor shall submit a copy of that updated written agreement and the updated written representation described in paragraph (b)(2) of this clause to the Contracting Officer for review and attachment to this contract.

(End of clause)

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H.R. 1437/P.L. 117–229
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